PAYMENTS FOR LANDS HERETOFORE CONVEYED TO THE UNITED STATES AS A BASIS FOR LIEU SELECTIONS FROM THE PUBLIC DOMAIN

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS

OF THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 9142

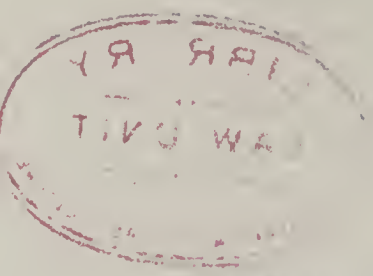
A BILL TO PROVIDE FOR PAYMENT FOR LANDS HERETOFORE CONVEYED TO THE UNITED STATES AS A BASIS FOR LIEU SELECTIONS FROM THE PUBLIC DOMAIN, AND FOR OTHER PURPOSES

NOVEMBER 2, 1959—FRESNO, CALIF.

Serial No. 11

Printed for the use of the Committee on Interior and Insular Affairs

UNITED STATES
GOVERNMENT PRINTING OFFICE
48332 WASHINGTON : 1960



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PAYMENTS FOR LANDS HERETOFORE CONVEYED TO THE UNITED STATES AS A BASIS FOR LIEU SELECTIONS FROM THE PUBLIC DOMAIN

MONDAY, NOVEMBER 2, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON PUBLIC LANDS OF THE
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Fresno, Calif.

The subcommittee met, pursuant to notice, at 9:45 a.m., in the Fresno County School Administration Building, Hon. Gracie Pfost (chairman of the subcommittee) presiding.

Mrs. PFOST. The subcommittee will come to order.

The Subcommittee on Public Lands is meeting at this time, pursuant to House Resolution 130, to hold a hearing on H.R. 9142, a bill introduced by our colleague, Congressman Sisk, of California, to provide for payment for lands heretofore conveyed to the United States as a basis for selections from the public domain, and for other purposes.

The subcommittee is grateful to all of those who cooperated in the arrangements for this hearing, and welcomes those who wish to testify to present their testimony in accordance with rules applicable to the hearing.

The chairman is pleased to have come here from the State of Idaho and to visit Congressman Sisk's district. I am glad that Congressman Sisk is present as a member of the subcommittee.

The other member participating in this hearing is Congressman Al Ullman, from the Second Congressional District of Oregon. In attendance from the committee staff are T. Richard Witmer, committee counsel; Karl S. Landstrom, consultant on public lands; and Karl Veley, committee reporter.

Without objection, the bill, H.R. 9142, will appear in the record at this point, together with the report from the Department of Agriculture. Is there objection?

There appearing to be no objection, it is so ordered.

(H.R. 9142 and the Department report follow:)

[H.R. 9142, 86th Cong., 1st sess]

A BILL To provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall certify to the General Accounting Office for audit the claim of any person who conveyed lands to the United States as a basis for a lieu selection in accordance with the provisions of the fifteenth paragraph under the heading "Surveying the Public Lands" in the Act of June 4, 1897 (30 Stat. 11, 36), as amended and supplemented by the Acts of June 6, 1900 (31 Stat. 588, 614), March 3, 1901 (31

Stat. 1010, 1037), and March 3, 1905 (33 Stat. 1264), and who has not heretofore received his lieu selection, a reconveyance of his lands, or authority to cut and remove timber, as provided by law, and there shall be paid to each such person whose claim is found to be proper the sum of $1.25 per acre for the lands conveyed by him to the United States with interest thereon at the rate of 4 per centum per annum, compounded annually, from the date on which application was last made by said person for a lieu selection, for reconveyance, or for authority to cut and remove timber or, if no such application has been made, from the date of this Act. Said payment shall be made from moneys appropriated under the heading "Claims for Damages, Audited Claims, and Judgments." No person shall receive, or be entitled to receive, payment under this Act except upon demand therefor made in writing to the Secretary, or any officer of the Department of the Interior to whom the Secretary delegates authority to receive such demand, within one year from the date of this Act.

SEC. 2. (a) The right to receive payment under this Act shall not be assignable.

(b) For purposes of payment under this Act, the term "person who conveyed lands to the United States" includes (i) the heirs and devisees of any such person and (ii) any other person to whom he or his heirs or devisees lawfully assigned, before enactment of this Act, their right to a lieu selection or a reconveyance, or their right to receive authority to cut and remove timber. If more than one heir, devisee, or assignee is entitled to share in a payment to be made under this Act, each may individually claim and receive his proper share of the total amount of $1.25 per acre, with interest, which is payable hereunder.

(c) No agent or attorney acting on behalf of another to procure a payment under this Act shall demand, accept, or receive more than 10 per centum of the payment made, and any agreement to the contrary shall be null and void.

SEC. 3. The Act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483) is hereby repealed. No reconveyance of lands to which section 1 of this Act applies shall hereafter be made under section 6 of the Act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872).

DEPARTMENT OF AGRICULTURE,
Washington, D.C., October 14, 1959.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR CONGRESSMAN ASPINALL: This is in response to your request of September 10, 1959, for our report on H.R. 9142, a bill, "To provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes."

We favor enactment of legislation to accomplish the purposes of H.R. 9142.

H.R. 9142 would require the Secretary of the Interior to certify to the General Accounting Office claims of persons who conveyed lands to the United States as a basis for lieu selections under the act of June 4, 1897 (30 Stat. 11, 36), as amended, and who have not heretofore received the lieu selection or a reconveyance of their lands. Persons having valid claims would be paid $1.25 per acre with interest. The right to receive payment would not be assignable. Applications would have to be filed within 1 year. The term "person who conveyed lands to the United States" would include the heirs or devisees of such person and any other person to whom he or his heirs or devisees lawfully assigned their right before the date of the act. Attorneys would not be authorized to receive more than 10 percent of payments.

H.R. 9142 would also repeal the act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483), and would provide that no reconveyance of such lands shall hereafter be made under section 6 of the act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872).

The situations to which H.R. 9142 are directed arise from the following circumstances.

A provision in the June 4, 1897, act authorized the owner of an unperfected bona fide claim or a tract of patented land within the limits of a national forest to relinquish or reconvey such tract to the United States and select in lieu thereof an equal acreage of vacant public land open to settlement. The March 3, 1905, act repealed this lieu selection authorization but protected valid contracts and selections previously made. The September 22, 1922, act provided that where a person or persons in good faith relinquished lands to the United States under the 1897 act but failed to place their lieu selections of record prior to the repealing act of 1905 or such lieu selections were rejected, the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of the grantor, could accept title to the relinquished lands for national-forest purposes and in exchange patent not to exceed an equal value of national-forest lands, or the Secretary of Agriculture could allow the grantor to cut and remove an equal value of timber within the national forests of the same State. Where such an exchange was not agreed upon, reconveyance by quitclaim deed of the lands conveyed to the United States was authorized. Satisfactory proof of the relinquishment of the lands to the United States had to be filed within 5 years of the date of the act.

Section 6 of the April 28, 1930, act provides that where a conveyance of land has been made or may hereafter be made to the United States in connection with an application for amendment of a patented entry, or an exchange of lands, or for any other purpose, and the application in connection with which the conveyance was made is hereafter withdrawn or rejected, the Secretary of the Interior is authorized and directed, if the deed of conveyance has been recorded, to execute a quitclaim deed to the conveyed land to the party or parties entitled thereto.

Under the 1897 act, as amended and supplemented, numerous lieu selections were made and completed. The lands so conveyed to the United States became parts of the national forests within which they were situated. However, in some cases lieu selections were either not filed or not carried through to completion. Deeds conveying the privately owned lands within the national forests were executed and placed of record in the county wherein the lands were situated. For various reasons, the grantors failed to follow through and obtain lieu lands. Some of the grantors exercised the privileges granted by the September 22, 1922, act. Others did not. As a result, there are scattered among national-forest lands in several Western States tracts of land to which there is a record title in the United States but as to which the United States has not accepted title or conveyed the lieu lands or other consideration. Due to the complexity of the records and the fact that the conveyances to the United States occurred 55 to 60 years ago, the correct status of many of these lands has become obscured.

The lands in this category have stood on the public records in the name of the United States for about half a century. The lands were all originally within national-forest boundaries, but some are now within national parks. Scattered as they are among national-forest or national-park land, the Government, to protect its adjoining property, has had to extend fire protection to them. The grantors or their successors have been given ample opportunities to bring these transactions to a conclusion and to obtain either other lands, timber-cutting rights, or a reconveyance of the tracts. With few exceptions, and most of these within recent years, no claims have been made to these lands during all this period, with no acts of control, or protection of the lands, or other normal acts of ownership or responsibility being exercised by the former grantors or their successors. Because the lands are shown on the local county records in the name of the United States, most of them have not been on either local or State tax rolls during the nearly 55 to 60 years since the deed to the United States was placed of record. Most of the grantors are probably dead and in many instances their legal successors in interest are widely scattered or not known.

In these circumstances, this Department believes that the title to these lands should be confirmed in the United States, with provision for such compensation to the grantors or their successors in interest as Congress finds equitable.

We recommend that a provision be added to the bill to specify that the land shall be part of the national forests or national parks within which they are located.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE, *Acting Secretary.*

(COMMITTEE NOTE.—The following report was received by the committee subsequent to the hearing:)

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, November 2, 1959.

2-140727

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives.

DEAR MR. CHAIRMAN: Your letter of September 10, 1959, acknowledged September 11, requests our comments on H.R. 9142.

The bill provides for settlement of certain claims of persons who have heretofore conveyed lands to the United States as a basis for lieu selections pursuant to the act of June 4, 1897, 30 Stat. 11, 36, as amended and supplemented by the acts of June 6, 1900, 31 Stat. 588, 614; March 3, 1901, 31 Stat. 1010, 1337; and March 3, 1905, 33 Stat. 1264. Payment would be authorized at the rate of $1.25 per acre with interest at the rate of 4 percent per annum compounded annually. The bill would bring to a conclusion all unresolved claims and rights under the statutes therein cited.

The enactment of legislation of this character is a matter of congressional policy on which we express no opinion. However, we do wish to comment concerning the interest to be paid. In effect, the act of June 4, 1897, allowed the owner of a patented tract of land or a settler on an unperfected bona fide claim within the limits of Federal forests to relinquish his tract to the United States and to select in lieu thereof a similar tract of vacant land open to settlement. The 1900 and 1901 acts required these in-lieu selections to be confined to vacant, surveyed, nonmineral public lands which were subject to homestead entry. The 1905 act repealed the 1897, 1900, and 1901 acts with the proviso that (1) in-lieu selections theretofore made could be perfected and patents issued, and, (2) the validity of contracts entered into prior to its enactment should remain unimpaired.

The 1905 statute in many cases precluded in-lieu selections on conveyances to the Government prior thereto relative to which no selection had been made. This resulted in clouded titles with respect to these lands. To correct this condition the Congress passed the act of September 22, 1922, 42 Stat. 1017, 16 U.S.C. 483. This statute authorized any person or persons who, in good faith, relinquished lands in a national forest under the 1897 act and failed to get their lieu selections recorded prior to enactment of the 1905 act or whose lieu selections, though duly filed, were rejected, to make new selections. In such event, the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of such person or persons, his heirs, or assigns, was authorized to accept title to such of the base lands as might be desirable for national forest purposes, and in exchange therefor to—

(1) issue patent for not to exceed an equal value of national forest land, unoccupied, surveyed, and nonmineral in character, or

(2) the Secretary of Agriculture could authorize the grantor to cut and remove an equal value of timber within the national forests of the same State.

The 1922 act further provided that where an exchange could not be agreed upon, the Commissioner of the General Land Office could relinquish and quitclaim to such person or persons, their heirs or assigns, all title which the United States might have in such lands. The proof of relinquishment was required to be made within 5 years after enactment of the statute.

Section 2 of the act provided that if the relinquished lands had been disposed of or appropriated to public use, other than the general purposes for which the national forests in which they were situated were created, such lands could not be relinquished and quitclaimed, in the absence of consent by the head of the department having jurisdiction thereof. In the event of failure of such consent or in the event of prior conveyance of the land by the United States other surveyed, nonmineral, unoccupied, unreserved public lands of ap-

proximately equal area and value could be selected and patented in lieu of the lands so appropriated or disposed of in the manner and subject to the terms and conditions prescribed by the 1897 act and regulations issued thereunder. Applications to make such lieu selections were required to be filed in the General Land Office within 3 years after the date of the act.

Apparently the 1922 act was intended, by reason of the statutes of limitation therein provided, to bring to a conclusion all activities authorized under the 1897 act and subsequent in-lieu acts, and to provide for the settlement of all claims arising thereunder. It appears, however, that many claimants under the in-lieu statutes failed to make timely applications under the 1922 statute. This resulted in enactment of section 6 of the act of April 28, 1930, 46 Stat. 257, 43 U.S.C. 872. Section 6 directs the Secretary of the Interior to execute a quitclaim deed to the parties entitled thereto where a conveyance of land has been or may thereafter be made to the United States incident to an exchange of lands or for any other purposes, and where the application incident to such conveyance is thereafter withdrawn or rejected.

The Bureau of Land Management (BLM) has informed us that prior to the 1930 act a rule had been followed whereby any appropriation of land conveyed for in-lieu purposes would preclude the issuance of a quitclaim title to the tract to its grantor (citing 50 L.D. 660) and that after the enactment of section 6 of this act the Bureau has operated on the basis that it was mandatory to execute a quitclaim deed of the conveyed land to the party entitled thereto notwithstanding its prior appropriation. A decision by the Assistant Secretary of the Interior, A–14058, dated September 30, 1930, was cited in support of this view. H.R. 9142 is intended to close out, finally and conclusively, all rights created in these and other grantors of lands which were conveyed pursuant to the above statutory provisions.

No accurate estimate of the cost of H.R. 9142 can be made. We have been informed by BLM that the amount of valid forest in lieu selection acreage which could form a basis for further selection can only be determined as each individual case is presented. The record indicates that under the recordation provisions of the act of August 5, 1955, 69 Stat. 534, 535, BLM has of record 61 pieces of recorded scrip approximating 5,073 acres. Also, BLM currently is considering three additional applications for further selection approximating 482 acres and 15 requests for reconveyances involving approximately 15,162 acres under section 6 of the 1930 act. The dates of the applications involved incident to this acreage have not been compiled and the compounded interest cost allowable under section 1 of H.R. 9142 therefore cannot be computed.

BLM has indicated that a reasonable estimate for outstanding conveyed acreage for which demand could be made under the proposed legislation, based upon its experience with the lieu acts, would be between 25,000 and 100,000 acres. A BLM schedule prepared upon this premise and based upon five interest periods considered possible under H.R. 9142 indicates a minimum possible cost of $32,500 under section 1 and a maximum cost of $1,422,248. In our opinion these estimates are valueless as a determination of reasonable costs because of the probable large variance of application dates which must be considered for compounded interest purposes incident to the applications presently being considered and those on future claims made possible thereunder. Since the compounded interest allowable makes up such a substantial portion of these costs we believe that costs must be based upon the reasonable average age of the claimants' applications. So far as we are aware this information is not available.

As heretofore indicated section 1 of the bill would allow a claimant interest on the value of his conveyance "at the rate of 4 percent per annum compounded annually, from the date on which application was last made." Payment of interest on this basis might represent the major cost to the Government under the bill. In the aforementioned BLM schedule the possible ages of in-lieu applications involved in the bill are shown to be from 1 to 62 years. The compounding of interest would increase a claimant's basic claim about elevenfold in 62 years, eight times in 54 years, four times in 37 years, and threefold in 29 years. We believe that the proposed allowance of compound interest as proposed in the bill is without precedent with respect to claims against the United States. For example, in condemnation proceedings authorized under 42 U.S.C. 159a(c) interest is allowable under prevailing law at the rate of 4 percent per annum on unpaid balances due the owner of the property taken and under the Declaration of Taking Act of February 26, 1931, 46 Stat. 1421, 40 U.S.C. 258a, interest is allowable at the rate of 6 percent on the excess award for the land taken over the deposit. Simple interest on judgments is allowable from the date of entry of the judgment until paid (28 U.S.C. 2071, Rule 56; 46 U.S.C. 742 and

745). Similarly, simple interest is allowable on taxes overpaid and judgments therefor, (28 U.S.C. 2411); and on tort claims reduced to judgment (28 U.S.C. 2674).

Since H.R. 9142 generally would operate to revive claims and rights otherwise lost, and since the bill proposes to compensate for takings not presently compensable under prior statutes, we are of the view that if interest is to be allowed, it should be simple interest commencing at the date of taking (application) to the date of payment rather than compound interest.

Sincerely yours,

FRANK H. WEITZEL,
Assistant Controller General of the United States.

Mrs. PFOST. Also, for reference purposes, there will appear extracts from certain pertinent statutes and decisions: Act of June 4, 1897 (30 Stat. 11, 36); act of June 6, 1900 (31 Stat. 588, 614); act of March 3, 1901 (31 Stat. 1010, 1037); act of March 3, 1905 (33 Stat. 1264); act of September 22, 1922 (42 Stat. 1017); section 6 of the act of April 28, 1930 (46 Stat. 257); act of August 5, 1955 (69 Stat. 534, 535): and decision of Assistant Secretary of the Interior, in the case of Rembrandt H. Peale, A–14858, September 30, 1930.

Hearing no objection, it is so ordered.

(The material referred to is as follows:)

ACT OF JUNE 4, 1897 (30 STAT. 11, 36)

That in cases in which a tract covered by an unperfected bona fide claim or by a patent is included within the limits of a public forest reservation, the settler or owner thereof may, if he desires to do so, relinquish the tract to the Government, and may select in lieu thereof a tract of vacant land open to settlement not exceeding in area the tract covered by his claim or patent; and no charge shall be made in such cases for making the entry of record or issuing the patent to cover the tract selected: *Provided further*, That in cases of unperfected claims the requirements of the laws respecting settlement, residence, improvements, and so forth, are complied with on the new claims, credit being allowed for the time spent on the relinquished claims.

ACT OF JUNE 6, 1900 (31 STAT. 588, 614)

That all selections of land made in lieu of a tract covered by an unperfected bona fide claim, or by a patent, included within a public forest reservation, as provided in the Act of June fourth, eighteen hundred and ninety-seven, entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes," shall be confined to vacant surveyed nonmineral public lands which are subject to homestead entry not exceeding in area the tract covered by such claim or patent: *Provided*, That nothing herein contained shall be construed to affect the rights of those who, previous to October first, nineteen hundred, shall have delivered to the United States deeds for lands within forest reservations and make application for specific tracts of lands in lieu thereof: * * *.

ACT OF MARCH 3, 1901 (31 STAT. 1010, 1037)

That all selections of land made in lieu of a tract covered by an unperfected bona fide claim, or by a patent, included within a public forest reservation, as provided in the Act of June fourth, eighteen hundred and ninety-seven, entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes." shall be confined to vacant surveyed nonmineral public lands which are subject to homestead entry not exceeding in area the tract covered by such claim or patent: *Provided*, That nothing herein contained shall be construed to affect the rights of those who, previous to October first, nineteen hundred, shall have delivered to the United States deeds for lands within

forest reservations and make application for specific tracts of land in lieu thereof: * * *.

ACT OF MARCH 3, 1905 (33 STAT. 1264)

That the Acts of June fourth, eighteen hundred and ninety-seven, June sixth, nineteen hundred, and March third, nineteen hundred and one, are hereby repealed so far as they provide for the relinquishment, selection, and patenting of lands in lieu of tracts covered by an unperfected bona fide claim or patent within a forest reserve, but the validity of contracts entered into by the Secretary of the Interior prior to the passage of this Act shall not be impaired: *Provided*, That selections heretofore made in lieu of lands relinquished to the United States may be perfected and patents issue therefor the same as though this Act had not been passed, and if for any reason not the fault of the party making the same any pending selection is held invalid another selection for a like quantity of land may be made in lieu thereof.

ACT OF SEPTEMBER 22, 1922 (42 STAT. 1017)

That where any person or persons in good faith relinquished to the United States lands in a national forest as a basis for a lieu selection under the Act of June 4, 1897 (Thirtieth Statutes at Large, pages 11, 36), and failed to get their lieu selections of record prior to the passage of the Act of March 3, 1905 (Thirty-third Statutes at Large, page 1264), or whose lieu selections, though duly filed, are finally rejected, the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of such person or persons, their heirs or assigns, is authorized to accept title to such of the base lands as are desirable for national-forest purposes, which lands shall thereupon become parts of the nearest national forest, and, in exchange therefor, may issue patent for not to exceed an equal value of national-forest land, unoccupied, surveyed, and nonmineral in character, or the Secretary of Agriculture may authorize the grantor to cut and remove an equal value of timber within the national forests of the same State. Where an exchange cannot be agreed upon the Commissioner of the General Land Office is hereby authorized to relinquish and quitclaim to such person or persons, their heirs or assigns, all title to such lands which the respective relinquishments of such person or persons may have vested in the United States: *Provided*, That such person or persons, their heirs or assigns, shall, within five years after the date of this Act, make satisfactory proof of the relinquishment of such lands to the United States by submitting to the Commissioner of the General Land Office an abstract of title to such lands showing relinquishment of the same to the United States, which absract or abstracts shall be retained in the files of the General Land Office.

SEC. 2. That if it shall appear that any of the lands relinquished to the United States for the purpose stated in the preceding section have been disposed of or appropriated to a public use, other than the general purposes for which the forest reserve within the bounds of which they are situate was created, such lands shall not be relinquished and quitclaimed as provided therein, unless the head of the department having jurisdiction over the lands shall consent to such relinquishment; and if he shall fail to so consent, or if any of the lands so relinquished have been otherwise disposed of by the United States, other surveyed, nonmineral, unoccupied, unreserved public lands of approximately equal area and value may be selected and patented in lieu of the lands so appropriated or disposed of in the manner and subject to the terms and conditions prescribed by said Act of June 4, 1897, and the regulations issued thereunder: *Provided*, That applications to make such lieu selections must be filed in the General Land Office within three years after the date of this Act.

SECTION 6 OF THE ACT OF APRIL 28, 1930 (46 STAT. 257)

That where a conveyance of land has been made or may hereafter be made to the United States in connection with an application for amendment of a patented entry or entries, for an exchange of lands, or for any other purpose, and the application in connection with which the conveyance was made is

thereafter withdrawn or rejected, the Commissioner of the General Land Office is hereby authorized and directed, if the deed of conveyance has been recorded, to execute a quitclaim deed of the conveyed land to the party or parties entitled thereto.

ACT OF AUGUST 5, 1955 (69 STAT. 534, 535)

That any owner of, and any person claiming rights to, Valentine scrip, issued under the Act of April 5, 1872 (17 Stat. 649) ; Sioux Half-Breed scrip, issued under the Act of July 17, 1854 (10 Stat. 304) ; Supreme Court scrip, issued under the Acts of June 22, 1860 (12 Stat. 85), March 2, 1867 (14 Stat. 544), and June 10, 1872 (17 Stat. 378) ; Surveyor-General scrip, issued under the Act of June 2, 1858 (11 Stat. 294) ; a soldier's additional homestead right, granted by sections 2306 and 2307 of the Revised Statutes; a forest lieu selection right, assertable under the Act of March 3, 1905 (33 Stat. 1264) ; a lieu selection right conferred by the Act of July 1, 1898 (30 Stat. 597) ; a bounty land warrant issued under the Act of March 3, 1855 (10 Stat. 701) ; or any lieu selection or scrip right or bounty land warrant, or right in the nature of scrip issued under any Act of Congress not enumerated herein (except the indemnity selection rights of any State, or the Territory of Alaska), shall, within two years from the effective date of this Act, present his holdings or claim for recordation by the Department of the Interior.

SEC. 2. In the case of a transfer after the effective date of this Act, by assignment, inheritance, operation of law, or otherwise of a holding or claim of any right recorded under this Act, the holding or claim of right so transferred shall be presented to the Department of the Interior within six months after such transfer, for recordation by it; except that where such transfer occurs within the period of two years from the effective date of this Act and the prior owner has not complied with provisions of this Act, the owner or claimant by transfer shall have the remainder of such period or a period of six months, whichever is the longer, within which to present his claims or holdings for recordation.

SEC. 3. There shall be endorsed on the evidence of the right or warrant each recordation thereof.

SEC. 4. Claims or holdings not presented for recordation, as prescribed herein, shall not thereafter be accepted by the Secretary of the Interior for recordation or as a basis for the acquisition of lands.

SEC. 5. Within thirty days after the effective date of this Act, the Secretary of the Interior shall cause to be published in the Federal Register a notice setting forth the recordation requirements of this Act. Within one year after the effective date of this Act the Secretary shall also cause notices of the recordation requirements of this Act to be published in such newspapers, posted in such public offices, and given publicity by such other means as he deems feasible and appropriate for the dissemination of information concerning the recordation requirements of this Act to persons who may have holdings or claims that are subject to such requirements.

SEC. 6. The Secretary of the Interior is authorized to make rules and regulation to carry out the provisions of this Act.

A. 14856.

DEPARTMENT OF THE INTERIOR,
Washington, September 30, 1930.

Rembrandt H. Peale
"K".
1379105.
Application for quitclaim deed denied.
Reversed.

APPEAL FROM THE GENERAL LAND OFFICE

This is an appeal from the decision of the Commissioner of the General Land Office, dated June 13, 1930, wherein he rejected an application, filed May 17, 1930, on behalf of Rembrandt H. Peale, for a quitclaim deed, under the provisions of section 6 of the act of April 28, 1930, Public No. 174, to the E½ sec. 36, T. 10 S., R. 27 E., M.D.M., California.

The Commissioner stated that no evidence had been presented that the appellant is entitled to a quitclaim deed; that the Department in a letter to the Federal Power Commission (50 L.D. 660), found that the land was in Water

Power Project No. 175 of the San Joaquin Light & Power Corp., and a 50-year license issued July 28, 1922: and that the court, in the case of *Work et al.* v. *Peale* (26 Fed. 2d 1002), said that appellant acquired title to the involved land on March 31, 1924, and held that appellant acquired through his purchase of the Clarke interest the right to make a lieu selection under the conditions specified in the act of September 22, 1922 (42 Stat. 1017), which right he permitted to lapse with the expiration of the period of limitation. The Commissioner held that it was not the intention of Congress to direct the issuance of quitclaim deeds for lands held to be appropriated for public use under the said act of September 22, 1922. The appellant has filed an appeal.

The record shows that the land in question, with other tracts, was released, remised, granted, and relinquished to the United States of America, by C. W. Clarke et ux., by instrument dated November 4, 1899(recorded November 8, 1899, in Book 232 of Deeds, page 165, et seq., of the records of Fresno County; that the conveyance was tendered in support of forest lieu selections under the act of June 4, 1897 (30 Stat. 36); that the forest lieu selections were rejected; and that on October 3, 1919, the right of reselection was denied.

The Department, October 31, 1924 (50 L.D. 660), held that the issuance of the license to the San Joaquin Light & Power Corp. constituted a disposition of the tract within the meaning of section 2 of the act of September 22, 1922, supra, and that the Secretary of the Interior was forbidden to quitclaim the tract to the party who conveyed it to the United States. Peale, as transferee of C. W. Clarke et ux., requested the Federal Power Commission to revoke and to hold for naught its action on the application of the power corporation, and the Department, October 17, 1925 (51 L.D. 227), adhered to its decision of October 31, 1924, and stated that in the opinion of the Department, nothing had been shown by petitioner which would warrant the action requested of the Commission, in the face of the status of the land and the title thereto as shown by the records, even though authority to issue the rule existed under the law.

In the case of *Peale* v. *Davis, Secretary of War et al.* (19 Fed. 2d. 695), decided May 2, 1927, a mandatory injunction was sought to compel the members of the Federal Power Commission and the Commission to revoke and to vacate a preliminary permit and license issued to the San Joaquin Light & Power Corp., on the involved land. The court affirmed the lower court in holding that the United States was an interested party, since the legal title stands of record in the Government. A writ of certiorari was denied, October 10, 1927 (275 U.S. 525).

The Court of Appeals of the District of Columbia, in *Work et al* v. *United States ex rel. Peale, supra*, decided June 4, 1928, on review of the issuance of a writ of mandamus requiring the execution and issuance of a relinquishment and quitclaim, held that a proceeding for a writ of mandamus cannot be converted into a proceeding in error, to review errors of the Land Department.

Section 6 of the act of April 28, 1930, supra, is as follows:

"That where a conveyance of land has been made or may hereafter be made to the United States in connection with an application for amendment of a patented entry or entries, for an exchange of lands, or for any other purpose, and the application in connection with which the conveyance was made is thereafter withdrawn or rejected, the Commissioner of the General Land Office is hereby authorized and directed, if the deed of conveyance has been recorded, to execute a quitclaim deed for the conveyed land to the party or parties entitled thereto."

It is well settled that complete equitable title to the relinquished land cannot exist in the Government unless and until a favorable decision has been made regarding the sufficiency of a selector's proof of his right to select the land (*Cosmos Exploration Company* v. *Gray Eagle Oil Company* (190 U.S. 301)). Furthermore, the land relinquished does not become public land subject to entry or other disposal until the title tendered has been accepted and approved (*Maybury et al.* v. *Hazeltine* (32 L. D. 41); *C. W. Clarke* (id. 233); *Lafayette Lewis* (33 L.D. 43); *William E. Moses* (id. 333); *George Austin* (id. 589); *W. E. Moses Land Scrip and Realty Company* (34 L.D. 458); *State of Oregon* v. *Hyde et al.* (169 Pac. 757); *Cosmos Exploration Company* v. *Gray Eagle Oil Company, supra*).

Manifestly, where a selector has made and recorded a conveyance to the United States in connection with an application for exchange of land, which was thereafter rejected, as in the case at bar, the Land Department must make operative the mandate of Congress expressed in section 6 of the act of April 28, 1930, directing the execution of a quitclaim deed of the conveyed land to the

party entitled thereto. Consequently, if and when it shall be made to appear that appellant is the present transferee of the relinquished land, by mesne conveyance from C. W. Clarke et ux., the Commissioner will execute a quitclaim deed to the appellant, notwithstanding the status of the land as shown on the records of the Department.

The Commissioner's decision is reversed.

(Signed) JOHN H. EDWARDS,
Assistant Secretary.

Mrs. PFOST. The rules of the House of Representatives and of the Committee on Interior and Insular Affairs govern the conduct of this hearing. Upon payment of the cost to the reporter, any person may obtain a transcript of the testimony taken. The hearing will close at approximately 4 p.m. this afternoon. Time will be divided between proponents and opponents so far as feasible.

The Chair understands witnesses have been advised that written statements should be presented in advance, and that oral statements should be limited to 10 minutes each to allow time for questioning.

At this point in the hearing we will be very happy to hear from your very able Member of Congress, Congressman Sisk. I might say that Congressman Sisk arrived in the Congress of the United States just 2 years after I did. He has served on the Interior and Insular Affairs Committee ever since the day he was sworn into the Congress, and he has been a most able member of that body. We are just as happy as we can be, Congressman Sisk, to be able to participate with you in a matter that is so vital to your district.

STATEMENT OF REPRESENTATIVE B. F. SISK

Mr. SISK. Madam Chairman, I am glad to welcome the members of this subcommittee to Fresno and the 12th Congressional District of California. I am especially pleased that it was possible, through the cooperation of Chairman Wayne N. Aspinall, of the Committee on Interior and Insular Affairs, and Chairman Gracie Pfost of the Subcommittee on Public Lands, to hold this field hearing today on my bill (H.R. 9142), to provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

We in California are very conscious of the importance of the national parks and the national forests.

The chief natural resources of California are the soil, timber, forests, water, and minerals. The basic industries of the State include lumbering, mining, and recreation, each of which is dependent to a substantial degree upon the integrity of our national forests. The proper management of our mountain watersheds—where the water so vital to our agriculture originates—is a primary element in the health and welfare of the State. Watershed protection and management is an important factor in the multiple uses of national forest lands, and a significant element in the administration of national parks.

Madam Chairman, as members of the Committee on Interior and Insular Affairs and of the National Outdoor Recreation Resources Review Commission, both you and our colleague from Oregon (Representative Ullman) are fully aware, I am sure, of the high rank of recreation as an industry, and as an inspiration to our people.

For these reasons, I am sure you will immediately sense the great public loss that would be involved if tens of thousands of acres of

highly valuable national park and national forest lands were to be lost by the Government. Yet, as you know, losses of thousands of acres have taken place and the potential loss of 50,000 acres or more of such lands is threatened in California alone.

By means of applications for quitclaim deeds filed under the act of September 30, 1930, there is a threatened potential loss of at least an equal amount of national forest and national park or other public lands in other Western States.

The lands that are threatened include some exceptionally valuable and indispensable tracts. In the Sierra National Forest, for example, they include the McKinley and Nelder groves of sequoia trees; the Soquel, Beasore, and Jackass Meadows; the Mount Dana-Minarets wild area; and the Shaver and Huntington Lake areas.

In the Sequoia National Forest, the loss of lands is threatened in the Pack Saddle Grove area on the proposed route of the Great Western Divide Highway.

In the Sequoia-Kings Canyon National Parks, loss of lands is threatened in the Redwood Mountain wild area and the Middle Fork of the Kings River, near the entrance to Tehipite Valley.

A national forest tract that has already been lost is the NE¼ of sec. 15, T. 6 S., R. 22 E., Mount Diablo meridian, which was quitclaimed by the Bureau of Land Management, Department of the Interior, to a Mr. and Mrs. Messersmith on January 28, 1958. The quitclaim, issued under the 1930 act, was on the basis of the relinquishment of this same tract to the United States prior to March 3, 1905, and the lack of completion of any conveyance by the Government in lieu of the tract in the intervening period.

The timber of this Messersmith tract had already been sold by the Forest Service and it has already been cut and removed. It became necessary, in view of the conveyance of the land to the Messersmiths, for the Government, after more than 50 years of protection, management, administration, to turn over to the private claimants all of the receipts from the timber sale, less sale expenses.

Another tract of valuable national forest land that has already been quitclaimed by the Bureau of Land Management is the NE¼SW¼ of sec. 21, T. 13 S., R. 28 E., Mount Diablo meridian, which was quitclaimed to a Mrs. Mildred B. Buhler, of Albuquerque, N. Mex., whose husband, now deceased, had been a retired Forest Service employee formerly working in the Regional Office of the Forest Service in Albuquerque. Mrs. Buhler is reported to have pending in the Bureau of Land Management six additional applications for quitclaim deeds under the 1930 act involving public lands in California.

Among others who have filed claims for quitclaim deeds of California lands are the Ranch Development Corp., 8228 Sunset Boulevard, Los Angeles; Mrs. Thomas E. McKnight of Los Angeles; and Mr. William Morris. The acreage in claims for California public lands as of September was 15,162 acres.

Evidence that many more requests for quitclaim deeds under the 1930 act are in the making is supplied by the official county records of several California counties. For example, in Tulare County alone, one firm alone, the Ranch Development Corp., is reported to have recorded documents and filed a request with county officials that some 6,600 acres of national forest and national park lands be placed on the tax rolls and assessed the corporation as owners. It is obvious

that this is an effort by the corporation to further perfect its claim to these lands as against all other private parties, as a basis for a future filing with the Bureau of Land Management for quitclaim deeds under the 1930 act for such of these lands as were relinquished prior to March 3, 1905, and for which no lieu selection has ever been consummated.

I should like at this time to offer for the files a series of documents copied from the official records of Tulare County evidencing the route by which the Ranch Development Corp. gained the appearance of title to one or two tracts of Federal land. These documents are briefly identified as follows:

1. Decree of the Superior Court, Los Angeles County, June 9, 1938, in the case of *K. F. Helvey* v. *H. W. Blaisdell et al.*, No. 427534, recorded at the request of Ranch Development Corp., No. 18997, June 27, 1957, volume 2001, page 512.

2. Deed, Edna M. Helvey to William Morris Taylor, March 23, 1954, recorded at request of Ranch Development Corp., No. 18973, June 27, 1957, volume 2001, page 504.

3. Order of Superior Court, Riverside County, Calif., dismissing case of *Edna M. Helvey* v. *William Morris Taylor*, December 4, 1956, recorded at request of Ranch Development Corp., No. 20762, July 14, 1958, volume 2065, page 401.

4. Affidavit of William Morris Taylor, November 4, 1954, recorded at request of Ranch Development Corp., No. 18972, June 27, 1957, volume 2001, page 503.

5. Quitclaim deed, William Morris Taylor to Ranch Development Corp., May 6, 1957, recorded at request of Ranch Development Corp., No. 27674, September 30, 1957, page 284.

Mrs. Prost. Without objection these documents will be made a part of the record.

Hearing no objection, it is so ordered.

(The documents follow:)

In the Superior Court of the State of California in and for the County of Los Angeles

No. 427 534

K. F. Helvey, plaintiff, *v.* H. W. Blaisdell, et al., defendants

DECREE QUIETING TITLE

This cause came on regularly for hearing on the 9th day of June, 1938, in Department 34 of the above entitled Court, the Honorable Emmet H. Wilson, Judge, presiding; the plaintiff appearing by her attorney, Geo. N. Foster, the defendants F. A. Hyde & Co., a corporation, Standard Investment Co., a corporation, and each of them failing to appear; and upon hearing, the matter was duly submitted, and the Court being fully advised in the premises, enters the following Judgment:

The Court finds that dismissals have been filed as to all the defendants, including the fictitiously named defendants, with the exception of F. A. Hyde & Co., a California corporation, and Standard Investment Co., a corporation, herein sued as A. Roe Co., a corporation.

The Court finds that said defendants, F. A. Hyde & Co., a California corporation, and Standard Investment Co., a California corporation, claim some right, title or interest in or to the following described property, all located in the State of California:

Section 16, Township 2 North, Range 8 West;

South half of Southwest Quarter, Section 36, Township 2 North, Range 9 West;

North Half of Southwest Quarter, Section 36, Township 3 North, Range 10 West;

South Half of Northwest Quarter, and West Half of Southeast Quarter, Section 36, Township 6 North, Range 18 West;

South Half of Southeast Quarter, Section 16, Township 8 North, Range 18 West;

All located in Los Angeles County, S.B.M.

North Half of Southwest Quarter, Section 16, Township 2 North, Range 2 West;

Northwest Quarter of Northwest Quarter, Section 16, Township 2 North, Range 4 West;

Southwest Quarter of Southwest Quarter, Section 16, Township 3 North, Range 5 West;

West Half of Northeast Quarter, Southeast Quarter, Southwest Quarter, and Northwest Quarter of Section 36, Township 3 North, Range 7 West;

Southwest Quarter of Northwest Quarter, Section 7, Township 2 North, Range 2 East;

All located in San Bernardino County, S.B.M.

Southeast Quarter of Northwest Quarter, and Southeast Quarter of Northeast Quarter, Section 36, Township 5 North, Range 19 West;

Southwest Quarter of Southeast Quarter, Section 36, Township 5 North, Range 22 West;

Northeast Quarter of Section 16, Township 5 North, Range 24 West;

Southeast Quarter, and North Half of Northwest Quarter of Section 16; and East Half of Northwest Quarter, and Northwest Quarter of Southwest Quarter of Section 36, Township 6 North, Range 19 West;

West Half of Section 36, Township 7 North, Range 23 West;

All located in Ventura County, S.B.M.

South Half of Northwest Quarter, and East Half of Southwest Quarter, Section 36, Township 7 North, Range 27 West:

West Half of Northwest Quarter, Section 16, Township 8 North, Range 25 West;

Southeast Quarter of Northwest Quarter, and East Half of Southeast Quarter, Section 16, Township 9 North, Range 24 West;

Northwest Quarter of Section 16, Township 9 North, Range 25 West;

West Half of Section 16; and West Half, and East Half of Southeast Quarter of Section 36, Township 9 North, Range 28 West:

West Half; and East Half of Southeast Quarter, Section 36, Township 10 North, Range 29 West;

All located in Santa Barbara County, S.B.M.

North Half; and South Half of South Half, Section 36, Township 25 South, Range 37 East;

Northwest Quarter of Southwest Quarter of Section 1; and North Half, and Southwest Quarter, and South Half of Southeast Quarter, and Northwest Quarter of Southeast Quarter of Section 2, Township 26 South, Range 34 East;

All located in Kern County, M.D.M.

Northeast Quarter of Southeast Quarter, Section 16, Township 14 South, Range 32 East:

East Half of Southwest Quarter, Section 36, Township 16 South, Range 31 East;

Northwest Quarter of Southeast Quarter, Section 16, Township 19 South, Range 33 East;

Northwest Quarter of Northeast Quarter, Section 16, Township 21 South, Range 32 East:

Northeast Quarter of Southeast Quarter, Section 36, Township 21 South, Range 33 East;

North Half of Southwest Quarter, Section 36, Township 21 South, Range 36 East;

West Half of Southeast Quarter, Section 36, Township 23 South, Range 30 East:

Southeast Quarter of Southeast Quarter, Section 36, Township 23 South, Range 33 East;

West Half of Northwest Quarter; and West Half of Northeast Quarter, Section 36, Township 24 South, Range 31 East:

Southeast Quarter of Northeast Quarter, Section 16, Township 24 South, Range 32 East;

All located in Tulare County, M.D.M.

Northwest Quarter, and South Half of Southwest Quarter, Section 16, Township 8 South, Range 26 East;

Northeast Quarter of Section 36, Township 9 South, Range 25 East;

Southwest Quarter; and North Half of Northwest Quarter, Section 16, Township 12 South, Range 29 East;

Northwest Quarter of Northwest Quarter, Section 36, Township 13 South, Range 27 East;

Southeast Quarter; and South Half of Northeast Quarter, Section 16, Township 13 South, Range 31 East;

All located in Fresno County, M.D.M.

Southeast Quarter; and East Half of Southwest Quarter; and South Half of Northwest Quarter; and Northwest Quarter of Southwest Quarter, Section 16. Township 5 South, Range 24 East;

Northwest Quarter; and North Half of Northeast Quarter, Section 16, Township 6 South, Range 23 East;

All located in Madera County, M.D.M.

Northwest Quarter of Northeast Quarter; and North Half of Southeast Quarter, Section 36, Township 22 South, Range 37 East;

East Half of Southeast Quarter; and Southwest Quarter of Southeast Quarter, Section 16, Township 23 South, Range 37 East;

Southeast Quarter of Southwest Quarter, Section 36, Township 24 South, Range 37 East;

All located in Inyo County, M.D.M.

Northeast Quarter; and East Half of Northwest Quarter; and Northeast Quarter of Southwest Quarter, Section 16, Township 6 North, Range 18 East;

All located in Tuolumne County, M.D.M.

HOWEVER, IT IS ADJUDGED as to said property above described, that said defendants and each of them have no right, title, interest, or claim in or to said property.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

That title be quieted in the plaintiff and against the defendants, F. A. Hyde & Co., a California corporation, and Standard Investment Co., a California corporation, and each of them, as to the property described in this Decree.

Pursuant to law no costs are taxed in this case.

Dated: This 9th day of June, 1938.

E. H. W.,
Judge.

GRANT DEED

I, Edna M. Helvey, of Desert Hot Springs, California, for and in consideration of valuable services rendered and to be rendered, do hereby grant to William Morris Taylor all real property situated in the State of California of whatsoever nature and wherever situated, including reversionary rights and claims to real property, save and except the real property and rights described in two deeds executed by me on the fifth day of January 1954 to said William Morris Taylor conveying to him an undivided one half of all of my right title and interest in certain rights of way in Los Angeles and Orange Counties, California. And save and except any and all real property located in the unincorporated area of Desert Hot Springs, California, and save and except a certain 160 acres, owned by me, in Lucerne Valley, San Bernardino County, California.

Witness my hand this 23rd day of March, 1954.

EDNA M. HELVEY.

STATE OF CALIFORNIA,
County of Riverside, ss:

On this 23rd day of March 1954, before me, the undersigned a Notary Public in and for said County, and State, personally appeared Edna M. Helvey, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same. In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[SEAL]

MILDRED BLAIR,
Notary Public in and for said County and State.

My commission expires May 21, 1955.

(William M. Taylor, 779 W. 8th Street, Claremont, California, Defendant)

In the Superior Court of the State of California

In and for the County of Riverside

INDIO

No. 408

DISMISSAL

EDNA M. HELVEY, PLAINTIFF, *v.* WILLIAM MORRIS TAYLOR, ET AL., DEFENDANTS

Pursuant to Section 581b of the Code of Civil Procedure of the State of California it is hereby Ordered that the above entitled matter be and hereby is dismissed. And that the defendant William Morris Taylor recover his costs incurred therein.

Dated: December 11, 1956.

HILTON H. MCCABE,
Judge of the Superior Court.

AFFIDAVIT

Order No. 104616

STATE OF CALIFORNIA,
County of Riverside, ss:

William Morris Taylor, being duly sworn, deposes and says:

That he is the owner of all the property described in Los Angeles County Superior Court Cases Numbered 418978, 427534, 440825, 443686, 450608, 454367, 455920 and 460756 having acquired all the rights of the plaintiffs therein by various deeds.

That the plaintiff K. F. Helvey, many years prior to her death, executed a General Deed to A. C. Helvey, said deed being dated August 28, 1940. Said deed was delivered to A. C. Helvey and was delivered by said A. C. Helvey to your affiant to hold for said A. C. Helvey for safekeeping. Said deed was delivered to your affiant shortly after its execution.

That you affiant knew K. F. Helvey for many years; that after the death of said K. F. Helvey this affiant together with A. C. Helvey carefully examined her possessions, letters, papers and effects and found no will left by said K. F. Helvey. That affiant is certain that she left no will.

That said K. F. Helvey left no real or personal property of any value upon her death.

WILLIAM MORRIS TAYLOR.

Subscribed and sworn to before me this 4th day of November 1954.

GLADYS G. BUTTERFIELD,
Notary Public in and for said County and State.

My commission expires June 17, 1957.

William Morris Taylor, a married man, as his sole and separate property, for a valuable consideration, receipt of which is hereby acknowledged, does hereby remise, release and forever quitclaim to Ranch Development Corporation, a Nevada corporation, the real property in the County of Tulare, State of California, described as follows: NE Quar. of SE Quar., Section 16, Township 14 S., Range 32 E.; and East half of SW Quar., Section 36, Township 16 S., Range 31 E.; and NW Quar. of SE Quar., Section 16, Township 19 S., Range 33 E.; and NW Quar. of NE Quar. Section 16, Township 21 S., Range 32 E.; and NE Quar. of SE Quar., Section 36, Township 21 S., Range 33 E.; and North half of SW Quar., Section 36, Township 21 S., Range 36 E.; and West half of SE Quar., Section 36, Township 23 S., Range 30 E.; and SE Quar. of SE Quar., Section 36, Township 23 S., Range 33 E.; and West half of NW Quar., and West half of NE Quar., Section 36, Township 24 S., Range 31 E.; and SE Quar. of NE Quar., Section 16, Township 24 S., Range 32 East, save and except there is retained and reserved unto the grantor, his heirs and assigns, forever, twenty percent of

all oil, gas, hydrocarbons, minerals, uranium and chemicals in and upon and underlying said lands, together with rights of ingress and egress; and save and except there is also retained and reserved unto Edna M. Helvey two and one-half percent and unto Mrs. George N. Foster and Georgette McGregor two and one-half percent of all oil, gas, hydrocarbons, minerals, uranium and chemicals, together with rights of ingress and egress.

Dated: May 6, 1957.

WILLIAM MORRIS TAYLOR.

STATE OF CALIFORNIA, *County of Los Angeles, ss:*

On May 6, 1957 before me, ------ ------, a Notary Public in and for said County and State, personally appeared William Morris Taylor, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same.

Witness my hand and official seal.

(SEAL)

MAX SHAYNE,

Notary Public in and for said County and State.

When recorded, please mail this instrument to Ranch Development Corporation, 8228 Sunset Boulevard, Hollywood 46, Calif., Order No. 19. Escrow No. RS 1871–1880.

Mr. SISK. Among the specific Government tracts that are included in this chain of documents are the following:

Township 14 south, range 28 east, Mount Diablo meridian.

Section 16, S½SW¼.

Section 36, NE¼SW¼.

One of these tracts is reported to contain "big trees" of high value.

Another specific tract included in the documents is the W½NW¼ of section 36, township 24 south, range 31 east, Mount Diablo meridian, which is shown on the local records of the Sequoia National Forest as having been relinquished to the United States under the 1897 act, and for which other public land is reported to have been conveyed in fulfillment of the obligations under the 1897 act by the United States.

I shall not at this time trace the series of laws and the events which over the years have resulted in this present dangerous situation. I understand that the Department of the Interior witness has available a comprehensive analysis of the series of laws and decisions. However, I should like to present a general view of the relationship between the United States and the present or potential claimants for quitclaim deeds, as I see it.

The essence of the act of June 4, 1807, was that the owner of a patented tract of land, or a settler on an unpatented land claim, located within the exterior limits of a national forest reserve, could voluntarily relinquish all title in the land to the United States, whereupon a right was established to select other public land of equal acreage, provided it was subject to homesteading. Because of widespread questionable practices that grew up under the act, it was repealed on March 3, 1905. It seems rather obvious that the owner of the land or the land claimant had to make an election: either he was to retain title to the land he had or he was to relinquish it and it was to become the property of the United States, to be administered for national forest purposes.

Later, when congressional studies made it plain that many of the lieu selections had not been consummated, Congress, by enacting the act of September 22, 1922, provided a limited time in which the selection could be perfected, either in an equal value of land or timber; or, if not perfected, a quitclaim deed could be obtained from the United States. The time limit for filing proof of relinquishments

under the 1922 act was 5 years. This seems to have been a fully ample period, and it must have been intended to operate as a statute of limitations. Thus, if any parties having unsatisfied claims under the 1897 act failed to act within 5 years after the enactment of the 1922 act, it would seem that they had given up all rights or interests in the transaction, and had abandoned such rights or interests as they might have had to the United States.

Nevertheless, section 6 of the act of April 28, 1930 (46 Stat. 257), was held by the Department of the Interior in a decision dated September 30, 1930, to have directed the Department to execute and deliver a quitclaim deed for the conveyed land in any case in which a lieu selection had not been consummated, and the party showed himself to be entitled thereto.

In view of the running of the statute of limitations on such claims, under the 1922 act it would seem that the 1930 act, as construed by the Department of the Interior, could only be viewed as offering the land back under such circumstances as an act of grace, or as a gift, on the part of the Government.

I understand that reconveyances by the Department of the Interior under the 1922 act, prior to the enactment of the 1930 act, totaled over 18,000 acres, of which over 13,000 acres was located in California. Under the 1930 act, over 27,000 acres have been quitclaimed, of which more than 8,000 acres was situated in California. I understand that the volume of quitclaims has suddenly jumped in the last few years, especially in Arizona and California. As I have mentioned, a substantial number of the claims now pending before the Bureau of Land Management involve California lands.

If, as I have suggested, quitclaims issued under the 1930 act are of the nature of acts of grace or gifts on the part of the United States, then there is no necessary obligation on the part of the United States to continue with such gifts in the future. Certainly there is no obligation that the Government must continue to give away highly valuable and essential or key tracts within national forests and national parks in view of the record of relinquishment and abandonment of private claims to the lands over a long period of time.

From this standpoint, the terms suggested in my bill are liberal.

The bill, briefly, would repeal the 1922 act, and provide that no reconveyance of lands conveyed to the United States under the 1897 act shall be made under section 6 of the 1930 act.

Despite the questionable nature of private claims that may in some sense persist as a result of such conveyances, where no lieu selection was consummated, the bill provides for payment to authorized private parties in settlement thereof, after audit by the General Accounting Office. Under the bill, attorneys would not be authorized to receive more than 10 percent of the payments. The payments would be computed at a basic rate of $1.25 per acre, plus interest compounded annually at 4 percent.

The provisions of the bill are more fully analyzed in the report of the Department of Agriculture to Chairman Aspinall, dated October 14. I am gratified that the Department of Agriculture has so promptly reported on the bill, and that enactment of the bill, with a minor amendment, has been recommended, with the concurrence of the Bureau of the Budget. I trust that the Department of the Interior

will likewise report favorably on the bill, and that it will be speedily enacted in the coming session of Congress.

Enactment of the bill, in effect, would confirm the title of the United States to the lands in question, and would assure their continued administration and multiple use management by the Federal agencies concerned, in the public interest. The payment provisions of the bill, I believe, are very liberal under the circumstances.

I would like to make it clear that it is not the intent of this legislation, and certainly not my intention to cut off or diminish any legitimate privately held lands or rights in our national forests and parks. This bill would in no way affect lands now under private title and possession. Under this bill, my investigations indicate, payments would be distributed to heirs and assignees of the original owners, rather than possibly to those who, under mere color of title, are actually seeking to cut off the rights of other claimants and establish rights adverse to them.

I would not want to close this statement without mention of numerous citizens within my district who have aided and encouraged me in my study of this matter. I will not attempt to name them all, but I would like to mention Lester J. Gendren, district attorney of Madera County, who is alert to the situation in his county and is using the authority of his office for the protection of the welfare of the people of his county. I have been assisted also by Philip Lucas, county assessor of Tulare County; George Philpot, of the Fresno County Sportsmen's Association; and various Government officers, including Supervisor Walter Puhn, of the Sierra National Forest; and Joseph Flynn and Eldon Ball, of the Sequoia National Forest; and Superintendent Walker, of the Sequoia-Kings Canyon National Park; and many others.

I appreciate the courtesy of the county schools in making this space available to the subcommittee and the attendance of the witnesses today who will aid in establishing a record on the merits of this legislation.

The Nation's 180 million acres of national forest are open to everyone who wants to visit them or travel through them. They provide essential public values under the multiple-use management of the Forest Service. The national parks are of steadily increasing importance as our population steadily grows and outdoor recreation becomes increasingly important.

Enactment of this legislation will stop the threatened loss of tens of thousands of acres of key tracts in national parks and national forests, yet it offers a fair and liberal cash payment in view of old unsettled claims.

I shall continue to urge prompt enactment.

Thank you, Madam Chairman, for bearing with me while I tried to lay the groundwork for this particular piece of legislation.

Mrs. PROST. Thank you very much, Congressman Sisk, for your very comprehensive statement. Certainly it has cleared up some problems that I had in my mind with regard to just what the legislation actually provided.

Are there questions of Congressman Sisk at this point?

Mr. ULLMAN. Madam Chairman, I just would like to also commend the gentleman from California for his diligence in attending to this

matter, and I am most interested in hearing the witnesses today to get their further elaboration on this very difficult problem. Thank you.

Mrs. PFOST. Thank you very much.

In order to give us a further picture of what is involved in the legislation, we felt we should start out by hearing the Bureau of Land Management and the Department people.

So our first witnesses this morning will be Mr. Harold Hochmuth, land staff officer of the Bureau of Land Management, Department of the Interior, and Mr. Fred Ferguson from the Solicitor's Office.

STATEMENTS OF HAROLD R. HOCHMUTH, LAND STAFF OFFICER, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR; AND FRED FERGUSON, SOLICITOR'S OFFICE

Mr. HOCHMUTH. Madam Chairman, I think you recognize there is no report by the Department to the committee yet and no approval by the Bureau of the Budget to any statement we might make. So our statements here this morning will be a technical service to the committee on any problems that might arise, in any way the committee might direct. We have no formal prepared statement to make but we have some observations to make.

The legal review that Mr. Sisk gave of the legislation beginning with the 1897 act I think need not be further reiterated here.

We might say that this situation arose, of course, under two sets of circumstances. One is where the lands were entered as homesteads and the homestead entryman relinquished the tract and has the right of selecting an equal acreage elsewhere.

The second set of circumstances was where the land was patented, the title was divested from the United States prior to the establishment of a national forest, and the patentee or record title owner of the land conveyed the land to the United States and wished to take a lieu selection elsewhere.

So we have those two sets of circumstances. It really takes us up to the question, I believe, of the 1922 act and the 1930 act. As Mr. Sisk has said, the previous rulings of the Department of the Interior have held that, although there was a statute of limitations running to the 1922 act, there was a mandatory language in the 1930 act which required, upon a request, for a reconveyance of the land back to the individual, that if there was no lieu selection perfected it was mandatory we reconvey the land back.

There is one other act, Mr. Sisk, which was not covered in your legal summary of the situation, and that is the 1955 Scrip Recordation Act. Under that act of 1955 those persons holding lieu selection rights under the 1922 and 1930 acts, in order to accomplish a lieu selection of lands, must have recorded that scrip right with the Department of the Interior, the Bureau of Land Management, after the passage of the 1955 act. If they did not record it, they had no further lieu selection rights. But of course they still maintained rights under the 1930 act for reconveyance of the land if the lieu selection was not completed.

So we had that additional act which we are operating under, and there is about 6,000 acres, I believe, of so-called forest lieu scrip which was recorded under the 1955 act, and so those persons who have

recorded that have two avenues they can go now. If it is valid scrip, they can either take a reconveyance or they can take a lieu selection. They have both avenues.

Now I do not know that I can add much more to the background.

We are proceeding, of course we have proceeded, to convey this land back upon proper application. The committee has the record before them, I believe, which we submitted to Mr. Landstrom of the number of conveyances, the acreages over the period in appendix A of a dittoed sheet here. Under the 1922 act there was reconveyed 18,603 acres.

(COMMITTEE NOTE.—The information referred to follows:)

APPENDIX A

(H.R. 9142)

Reconveyances under the 1922 act by 5-year intervals from 1924

Years	State	Acres	Years	State	Acres
1924–29	Arizona	960.00	1924–29	Utah	401.32
1924–29	California	13,562.06	1930–34		40.00
1930–34		147.72	1924–29	Washington	23.85
1924–29	Colorado	670.10	1924–29	Wyoming	280.67
1924–29	Idaho	480.00			
1924–29	New Mexico	300.00	Total acreage reconveyed under the 1922 act		18,603.
1924–29	Oregon	1,697.89			
1924–29	South Dakota	40.00			

APPENDIX B

(H.R. 9142)

Reconveyances in acres, by States, by 5-year intervals under 1930 act

State	Years						Total
	1930–34	1935–39	1940–44	1945–49	1950–54	1955–59	
Arizona	1,714.48	160.00	439.20	146.12	960.00	8,943.63	12,363.43
California	1,841.72	667.27	318.90	200.00	1,079.50	4,753.55	8,860.94
Colorado	40.00	40.00		280.00		191.50	551.50
New Mexico	160.00	80.00	160.00	400.00	480.00	120.00	1,400.00
Oregon	200.00	404.17	320.00	1,040.00	1,080.00		3,044.17
South Dakota	160.00		40.00			120.00	320.00
Washington	232.47						232.47
Wyoming	280.00					325.72	605.72
Total	4,628.67	1,351.44	1,278.10	2,066.12	3,599.50	14,454.40	27,378.23

Mrs. PFOST. May I ask a question right there: How many transfers were involved in these 18,000 acres?

Mr. HOCHMUTH. I do not know exactly, Madam Chairman, because we did not run this down by going to the individual document. This was run down from statistics given previous congressional committees from which we ran that data down.

Then appendix B, reconveyances by 5-year intervals, under the 1930 act.

You will note beginning in 1930 there were some 4,600 acres, approximately, and they have dropped down to between 1,000 and 3,000 acres up until 1945. Then in 1955 the request ran it up to 14,454. That is the number of acres we did reconvey during the 1955-59 period. So the total we have reconveyed now is 27,378.

The next question that might arise is, How much land would H.R. 9142 affect? And that is the question that I do not think either we in the Department of the Interior or perhaps the witnesses in the Department of Agriculture could tell you exactly, because it would be a tremendous title job to do it. But we figure it affects somewhere between 25,000 and 100,000 acres. It is about as close as we can get right now.

Mrs. PFOST. Did you say 75,000 to 100,000 acres?

Mr. HOCHMUTH. 25,000 to 100,000 acres, and the primary acreage of that is in California and in Arizona.

We have some data on specific tracts of land any time the committee wishes to go into specific reconveyances. I think that would perhaps complete my statement except for a statement Mr. Ferguson might have.

Mr. FERGUSON. I have nothing to add.

Mr. HOCHMUTH. We would be glad to answer any questions on that.

Mrs. PFOST. Thank you very much, Mr. Hochmuth.

The Chair recognizes the gentleman from Oregon, Mr. Ullman, for any questions he might have.

Mr. ULLMAN. Madam Chairman. How far back do most of these claims go, Mr. Hochmuth? Is there a certain period where most of them originate?

Mr. HOCHMUTH. I believe that for California at least most of them arose right after the passage of the 1897 act, until 1905 when that act was repealed. And in California a substantial number of those claims are sections 16 and 36, which are State school sections.

Now, much of the mountainous area of California was surveyed rather early, Mr. Ullman, between 1874 and 1888, and so those were school sections in place prior to the establishment of the national forest in 1897 or 1898. So, those claims originated then. The State of California patented the lands. In fact, sometimes twice, from our records.

Mr. ULLMAN. What percentage were mining patented lands you spoke about in your testimony?

Mr. HOCHMUTH. I suspect that a rather small percentage, if any, were mining patented lands themselves. In 1900, of course, for lieu sections it required nonmineral lands. So after the act of June 6, 1900, I do not think they would arise. Most of them, and I should say practically all of them, are either school sections in place, or they are homestead unperfected entries, or other type of private lands.

Mr. ULLMAN. Did these people prove up on their homesteads? Is this a requirement so that title could have vested in the private party?

Mr. HOCHMUTH. If they proved up on their homestead, of course, it became private land like any other patented land. Then, of course, they could have come in with a lieu selection elsewhere. But many of them were what we call unperfected homesteads: They entered upon the land, and before they got title the law permitted them to relinquish that homestead and take a lieu selection some place else. That is the case where the title had never passed from the United States.

Mr. ULLMAN. And most of the lands are in that category?

Mr. HOCHMUTH. No, I think most of them are in the other category where title definitely had passed from the United States.

Mr. ULLMAN. And then who has managed these lands over the years?

Mr. HOCHMUTH. I think perhaps the Forest Service representatives are better able to answer that question, Mr. Ullman, only for the reason that the Bureau of Land Management only is the administrator of the legal requirements of the 1922 and 1930 acts. The administration of the land has been in the Forest Service.

Mr. ULLMAN. Do we have any idea what percentage of the lands were in parks and what percentage in forests?

Mr. HOCHMUTH. In California the parks mainly were carved out of the national forest, so they were withdrawn by Executive order for national forest purposes and subsequently taken from a national forest status and placed in park status.

Mr. ULLMAN. As of now you do not have any idea how much of these lands is under the Park Service?

Mr. HOCHMUTH. No, I do not. By far the larger percentage, though, would be in the national forests.

Mr. ULLMAN. Do you know whether the State of Oregon has many of these lands?

Mr. HOCHMUTH. I think there is a minor acreage there.

Mr. ULLMAN. Minor acreage?

Mr. HOCHMUTH. Yes, a minor acreage.

Mr. ULLMAN. I think I will reserve the balance of my time, Madam Chairman.

Mrs. PFOST. The Chair recognizes the gentleman from California, Mr. Sisk.

Mr. SISK. Mr. Hochmuth, I am very happy to have you come out and to make your statement. I appreciated our visit in Washington and our discussion of this.

I just have two or three things. What is the situation as of right now, let us say November 2, regarding quitclaim deeds by the Bureau of Land Management?

Mr. HOCHMUTH. As is normally the case, with the submission of legislation affecting public lands in any manner or a public land matter, we have suspended the issuance of quitclaim deeds under the 1930 act pending the consideration of this legislation.

Mr. SISK. Will you elaborate a little bit more on just what is required in the way of proof of ownership in the granting of these quitclaim deeds? I am just looking at the list here. There are quite a number of these pieces of land that have been quitclaimed to various people, some of whom I mentioned in my statement. What generally do you require in the way of actual legal proof of ownership and so on? Would you elaborate a little bit on what the Bureau of Land Management requires before you actually grant a quitclaim deed?

Mr. HOCHMUTH. This has been, of course, one of our difficulties. The person would have to show the chain of title from the original person who conveyed the land to the United States. If they cannot show a chain of title of that kind, the land may still be quitclaimed or reconveyed back to an individual but with the other reconveyed back to the original grantor unless the person who had made an application had shown a chain of title down to himself.

Mr. SISK. One problem I know we have discussed before, Mr. Hochmuth, has to do with the fact there were blocks of these lands that apparently consisted of lands where these people are granted title

to them and yet the Forest Service and Park Service actually were not aware of it. You are familiar with our discussion on that. What is the procedure at present? Has that situation been corrected to the point—and you must understand this is not criticism of you or your Department, but I made the charges at one time that seemingly the right hand did not know what the left hand was doing. Will you make a comment on that?

Mr. HOCHMUTH. I think your comment is valid. I had occasion, at Mr. Landstrom's request, to check the status of certain lands in California. But going through those old records I saw written across the front of the record, "Before reconveyed notify the Forest Service." In some cases notification was not made.

There are certain requirements where we must have the permission of the Secretary of Agriculture. Would you read that section of the law, Mr. Ferguson, where we are required to get the permission of the Secretary of Agriculture?

Mr. FERGUSON. Section 2 of the 1922 act:

If it shall appear that any of the lands relinquished to the United States—

Mrs. PFOST. Mr. Ferguson, will you speak a little louder?

Mr. FERGUSON. Mr. Hochmuth has asked me to read section 2 of the act of September 22, 1922, which is section 484 of title 16 of the United States Code:

If it shall appear that any of the lands relinquished to the United States for the purpose stated in section 1 of this section has been disposed of or appropriated to a public use other than the general purposes for which the national forests within the bounds which they are situated was created, such lands shall not be relinquished and quitclaimed as provided therein unless the head of the department having jurisdiction over the lands shall consent to such relinquishment. And if he shall fail to so consent or if any of the lands so relinquished have been otherwise disposed of by the United States, other surveyed nonmineral, unoccupied, unreserved public lands of approximately equal area and value may be selected and patented in lieu of the lands so appropriated or disposed of, in the manner and subject to the terms and conditions described by the said act of June 4, 1897.

Mr. HOCHMUTH. The reason I had that section of the law read is because it appears it is probably mandatory that we do confer with the Forest Service on any reconveyances under the 1930 act. If there were, in fact, improvements placed on the land, and the lands were being used for purposes other than basically for national forests—and I would say a recreation area could be an example—if the head of the Department does not concur in that reconveyance, there is no longer a reconveyance available and they can only take a lieu selection.

So a brief answer to your question is, "We are sorry, we won't do it again."

Mr. SISK. Madam Chairman, there are a number of questions which I would like to ask of the Bureau of Land Management people, but in view of the fact they will be available to us back in Washington when hearings will be resumed, and in view of the fact we do have many local people that we hope to hear from, I shall refrain from further questioning.

Mrs. PFOST. Thank you very much for your cooperation, Mr. Sisk.

I should like to ask one or two brief questions: In the proof of claim, do you find one person, for instance, coming in and asking for a deed

or trying to prove he has a claim to more than one piece of property, or are all of these quitclaim deeds going to separate individuals?

Mr. HOCHMUTH. The situation exists both ways. They could actually be asking for reconveyance of 40 acres, 80 acres, 160 acres, and they could be in separate applications for a quitclaim deed.

Mrs. PFOST. Do you issue deeds, or, to your knowledge, have you been issuing deeds to more than one block of property or one particular piece of property to an individual? Has one person, we will say, in the area made claim to you for a half a dozen or a dozen different pieces of property?

Mr. HOCHMUTH. Oh, yes.

Mrs. PFOST. Would you have any way of knowing how many separate pieces of property may have gone to one individual?

Mr. HOCHMUTH. It could be established. It would be quite a job, but it could be established.

Mrs. PFOST. That will not be necessary for the hearing this morning. It is something that can be supplied for the record at a later date.

Mr. HOCHMUTH. Yes.

Mrs. PFOST. I believe, Mr. Hochmuth, it would be quite pertinent to this hearing if we could be furnished with the separate pieces of property being deeded to one individual so that we could get an idea as to what the status actually is.

Mr. HOCHMUTH. May I ask one question, Madam Chairman?

Mrs. PFOST. Yes.

Mr. HOCHMUTH. It would not be too difficult, for instance, for us to go back to the records in the last 5 years, which probably is more pertinent to this inquiry than previous happenings. If we had to go back to 1930 I am afraid it would be a terribly costly job.

Mrs. PFOST. I am sure it would be. So perhaps it will not be necessary to have you go clear back. But I do think it would be pertinent to the question before us if we could have the more recent years itemized for us.

Mr. HOCHMUTH. We will furnish that.

(The information follows:)

Quitclaim deeds issued under act of Apr. 28, 1930 (46 Stat. 275; 43 U.S.C. 872), for lands used as a basis for forest lieu selection under the act of June 4, 1897 (30 Stat. 36), for the period March 1954 to August 1959

YEAR OF RECONVEYANCE, 1954

Grantee	County	Acreage
Arizona:		
Oscar T. and Mary Julia Toombs	Coconino	160
Do	do	80
California:		
William R. Greene	Los Angeles	80
Thomas B. and Harriet G. Walker	do	640
New Mexico: F. M. Inman [1]	Sierra	120

YEAR OF RECONVEYANCE, 1955

Arizona:		
Aztec Land & Cattle Co	Coconino	640
William F. and Dania W. Baker	do	120
Frank C. and Mary L. Reid	Yavapai	40
Santa Fe Pacific RR	Coconino	839.97
Colorado: Zachary T. and Mary P. Hedges	Teller	31.50

YEAR OF RECONVEYANCE, 1956

Arizona:		
Aztec Land & Cattle Co	Coconino	1,823.62
Frank E. Patton and Maudie Eleanor Meachum [1]	do	160
Edward B. and Lilo M. Perrin	do	176.91
Santa Fe Pacific RR	do	200
Do	do	800.88
Do	do	456
Do	do	160
Do	do	160
Do	do	80
Do	Yavapai	604.40
Do	do	31.56
Do	do	503.93
California:		
John and Sara A. Davenport	Los Angeles	40.90
E. O. and Cora E. Miller	Tulare	160
Charles E. Penny [1]	Los Angeles	160
South Dakota: Ray M. Clark and Richard Jatko [1]	Pennington	120
Wyoming: C. B. and Lueretia M. Burrows	Albany	325.72

See footnote at end of table.

Quitclaim deeds issued under act of Apr. 28, 1930 (46 Stat. 275; 43 U.S.C. 872), for lands used as a basis for forest lieu selection under the act of June 4, 1897 (30 Stat. 36), for the period March 1954 to August 1959—Continued

YEAR OF RECONVEYANCE, 1957

Grantee	County	Acreage
Arizona:		
Frank Erramuzpe, Jr.[1]	Coconino	160
Frank C. Reid	do	80
Santa Fe Pacific RR	do	400
Do	do	75.82
Do	do	39.57
California:		
Joseph William Belden	Fresno	40
James B. and Mary A. Bradley	Kern	240
C. W. Clarke	Fresno	120
C. W. and Philomen Clarke	Inyo	40
Do	Tulare	80
C. W. Clarke	do	200
Do	do	80
C. W. and Philomen Clarke	do	40
Do	do	80
C. E. Glover	Fresno	160
Do	do	40
Do	do	40
Do	do	40
Do	Mono	40
Do	Tulare	40
J. A. and Kate Hannah	do	160
William A. Hawkins	Fresno	160
F. A. Hyde & Co	Tulare	80
Do	Ventura	80
J. R. Johnston	Los Angeles	192.65
George Liebes	Madera	160
George L. Ramsey	Kern	320
Colorado: William E. Moses	Park	160
Montana: Benjamin F. Lepper	Fergus	80
New Mexico: W. E. and Ella O. Moses	Lincoln	120

YEAR OF CONVEYANCE, 1958

California:		
A. B. and Florence Hammond	Kern	160
James G. Freeman	Fresno	120
Charles H. and Marguerite Maginnis	Madera	80
Joseph and Ida Messersmith	do	160
E. O. Miller	Ventura	160
George I. Scofield	Kern	640
Thomas A. Williams	El Dorado	160
F. A. Hyde	Fresno	200
Do	Tulare	40
Joseph Messersmith	Madera	160
E. O. and Cora Miller	Tulare	40

YEAR OF CONVEYANCE, 1959

California:		
F. A. Hyde	Los Angeles	80
William G. and Marthena Gosslin	do	40
A. G. Strain	do	40

[1] Indicates grantee was other than party deeding land to United States.

Mr. ULLMAN. Will the chairman yield?

Mrs. PFOST. Yes, I yield.

Mr. ULLMAN. Do I understand that most of these claims are under the 1930 act?

Mr. HOCHMUTH. Yes, sir. The 1930 act, of course, superseded the 1922 act which had a statute of limitations to it. But the 1930 act is the act under which we can quitclaim the lands back to the original holder.

Mr. ULLMAN. Mr. Sisk, in his statement, said the 1930 act as construed by the Department could only be viewed as offering the land

back under such circumstances as an act of grace or gift on the part of the Government. Would you say from a legal standpoint that is largely correct?

Mr. HOCHMUTH. Mr. Ullman, that is a difficult question to answer, because I do not think—and I am not an attorney, but I might ask Mr. Ferguson if he cares to comment on it.

My opinion is that there is mandatory, perhaps, language in the 1930 act, but in either event, if it is to be argued at all, the Department has ruled for many years that it is mandatory, so therefore we have reconveyed the lands back.

Mr. ULLMAN. I will yield to the counsel, Mr. Witmer.

Mr. WITMER. I would like to follow that up, Mr. Hochmuth, because I had just about the same question in mind.

As I understood your testimony, it was to the effect that if this bill is enacted it would not affect lieu selections rights but only a right to the return of the property under the 1930 act. Did I hear you correctly?

Mr. HOCHMUTH. No; I do not think I testified to that, Mr. Witmer.

Mr. WITMER. Then if you did not testify to it, would you do so now? Does this bill affect the right to make a lieu selection?

Mr. HOCHMUTH. I think probably the intent of the language, as we see it, is that it limits or concludes the right to reconveyance but not necessarily the right to a selection.

Mr. WITMER. That is my reading of the bill, and I know the question has been raised and some question probably will be raised as to whether it ought not to be extended clearly to cover the other. But in our present reading of the bill it does not cover the lieu selections, it merely cut off, as I read it, the right to a reconveyance, thereby overcoming the provisions of the 1930 act, which, as you say, are mandatory, and of the 1922 act which were permissive with respect to a reconveyance.

Does that not, in effect, then restore the bargain to what it originally was under the 1897 act; namely, to have a lieu selection and nothing else?

Mr. HOCHMUTH. That is correct.

Mr. WITMER. That was the original bargain. The provisions for return of the land, reconveyance of the land, were, in effect, a gratuity on the part of the Congress in 1922 and 1930. I am not talking now about what the Department has to do under the law as it existed, but what Congress did do, what Congress could do.

Mr. MOCHMUTH. I would say that is correct, Mr. Witmer.

Mr. WITMER. Likewise, the payment provision of the present bill, H.R. 9142, for $1.25 an acre, plus interest, or any variance of that which might be written in by way of an amendment would be, in effect, a gratuity on the part of Congress?

Mr. HOCHMUTH. Well——

Mr. WITMER. Congress can undo what it did in 1930. It can undo what it did in 1922. It can restore the parties to what the original bargain was, is in effect what I am saying.

Mr. HOCHMUTH. To that statement I can agree. I am not competent, Mr. Witmer, to argue the legal points of a just taking and so on here, but the latter statement I certainly would agree to.

Mr. WITMER. I think that is all we need to do, then, for present purposes.

May I ask one other question, Mr. Ullman?

Mr. ULLMAN. Yes.

Mr. WITMER. Have any demands been made under the 1922 or 1930 acts for return of land for which lieu selections have been made and consummated?

Mr. HOCHMUTH. Yes, sir.

Mr. WITMER. A substantial number?

Mr. HOCHMUTH. Yes, sir.

Mr. WITMER. Could you furnish the committee with a list?

Mr. HOCHMUTH. I have furnished the committee with certain specific lands in California, and I have additional ones. There are about seven or eight tracts, and these are also lands that were requested to be placed on the tax rolls in Tulare County. In every instance the lieu selection has been consummated and patent has issued in another State except one.

Mr. WITMER. It appears to me, Madam Chairman, that this is a very important point we ought all to bear in mind. Have those applications come from a single source or a group of individual sources, or have they been widely scattered as to applicants?

Mr. HOCHMUTH. They have come from one particular group.

Now, there has been another group who have done enough status work on the applications to know when they filed an application for a quitclaim deed that there had been no lieu selection made.

Mr. WITMER. Yes.

Mr. HOCHMUTH. But in the Bureau now—I will tell the committee this right now: The Bureau of Land Management can no longer afford to do the legal work for these people on this question. They are going to do their own legal work, and before we are going to approve a reconveyance, if this act is not passed, they are going to have to prove to us that a selection was not made elsewhere.

Mr. WITMER. Up to now, then, the Department's practice has been to take on the burden, in effect, of proving that no lieu selection has been made?

Mr. HOCHMUTH. That is correct.

Mr. WITMER. And for the future it will be up to the applicant to do so?

Mr. HOCHMUTH. I might say this bill has made us look over our position and our activities on this matter and that is a correct statement.

Mr. WITMER. As a minimum, then, one or two sources have passed a very heavy burden of work on to the Department?

Mr. HOCHMUTH. At least one, and the other source has passed a heavy burden but they have done substantial work.

Mr. WITMER. Will you mention the name of that source, please?

Mr. HOCHMUTH. Which source was that?

Mr. WITMER. Whatever source it is we are talking about.

Mr. HOCHMUTH. The Ranch Development Corp. is one source, and the other source of which we have conveyed quite a few tracts is the Buhler interests, but they have done a substantial amount of abstracting work before they come to us.

Mr. WITMER. Thank you very much.

Have the officials of the Ranch Development Corp. or the man by the name of Buhler you have just mentioned—were either of those ever associated with the Bureau of Land Management?

Mr. HOCHMUTH. Not to my knowledge.

Mr. WITMER. Thank you very much, Madam Chairman.

Mrs. PFOST. Thank you. I believe our consultant has a question or two.

Mr. LANDSTROM. I am informed Mr. Bamby, who is the Lands Officer of the National Park Service in this region, is in the audience. He has been kind enough to bring a couple of maps which are on this board here. Would you care to ask him to identify these maps and identify the material on them for the information of the committee?

Mr. HOCHMUTH. Would you come forward, Mr. Bamby?

Mrs. PFOST. Please identify yourself for the record.

STATEMENT OF VERNON F. BAMBY, REGIONAL CHIEF OF LANDS DIVISION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. BAMBY. My name is Vernon F. Bamby, Regional Chief of the Lands Division, National Park Service.

These maps were made in my office to illustrate the land that has already been quitclaimed in these different parcels in Sequoia National Park and Kings Canyon National Park.

Mr. LANDSTROM. How many tracts are there?

Mr. BAMBY. The total is eight separate parcels.

Mr. LANDSTROM. How many acres?

Mr. BAMBY. 640 acres.

Mr. LANDSTROM. When were they quitclaimed, in the last few years?

Mr. BAMBY. Since 1957.

Mr. LANDSTROM. Does this paper [indicating] identify one of these tracts?

Mr. BAMBY. It does.

Mr. LANDSTROM. Would you briefly describe that tract?

Mr. BAMBY. That is an 80-acre tract in the Redwood Mountain area of Kings Canyon National Park.

Mr. LANDSTROM. What is the appraised value of that?

Mr. BAMBY. We have not appraised it yet, but the persons controlling it claim a value of upwards of $40,000.

Mr. LANDSTROM. What is the nature of the value?

Mr. BAMBY. The value is largely based on timber, and they gave us cruise figures on timber amounting to 2,345,000.

Mr. LANDSTROM. Does the Park Service consider any of these tracts as having scenic values?

Mr. BAMBY. All of the tracts have scenic value. It is not possible to build on them but they are vital to the National Park Service in that they are on high scenic points. Some of them are from 11,500 to 13,000 feet. Obviously, it would be very detrimental to the national parks if people could come in and claim those lands.

Mr. LANDSTROM. Mr. Bamby, here is another paper. This paper is dated November 2 and appears to list certain other lands which have been quitclaimed, perhaps these same parcels. Is this correct?

Mr. BAMBY. This is correct. This was made out by myself and it lists all of these several tracts and also lists six other tracts to which title has recently been recorded by the Ranch Development Co. They

are not shown on this map, but these other tracts, according to the Bureau of Land Management records in the Washington office are still in the ownership of the United States for the reason that they came under this general heading and title was accepted by the United States. So we see no reason to question the authenticity of title.

Mr. LANDSTROM. Thank you very much, Mr. Bamby.

Mr. Hochmuth, one of the tracts that are identified in the legal documents which were referred to by the Chairman in her opening remarks as being involved in those title documents, and which have been requested to be placed on the tax rolls of Tulare County by the Ranch Development Corporation, is identified as follows: Township 24 South, Range 31 East, Mount Diablo meridian, California, in Section 36, the west half of the northwest quarter and the west half of the northeast quarter. I understand that you have had a title search made in the records of the Bureau of Land Management as to the status of those tracts. Is that correct?

Mr. HOCHMUTH. Yes, and I will submit this to you rather than to read it all. As far as the west half of the northeast quarter of section 36, Mount Diablo meridian, on February 21, 1898, an application was made by F. A. Hyde to select the south half of the southeast quarter of section 1, township 1 north, range 16 east, Mount Diablo meridian, in lieu of this said tract. On April 1, 1902, this said tract was patented to F. A. Hyde under lieu selection No. 22, California. There is no question but the title is in the United States.

The second tract you asked for is the west half of the northwest quarter of section 36. Briefly, again, it has been patented. The lieu selection has been patented under Wyoming lieu selection 2765, and the patent number 914626 under Douglas 05594 has been issued under that selection on August 22, 1923. There is no question but title is in the United States.

Mr. LANDSTROM. Madam Chairman, I have here Mr. Hochmuth's status reports on those two tracts which I would request be placed in the record at this point together with the papers submitted by Mr. Bamby.

Mrs. PFOST. You have heard the request. Is there objection?

Hearing none, it is so ordered.

(The documents follow:)

TOWNSHIP 24 SOUTH, RANGE 31 EAST, MOUNT DIABLO MERIDIAN, CALIFORNIA

SEC. 36

August 4, 1879: Township plat filed Visalia Land Office.
November 5, 1891: Portion of township withdrawn for Tulare National Forest.
February 14, 1893: Portion of township withdrawn for Sierra National Forest.
August 20, 1908: Township placed in Sequoia National Forest.

W½NE¼

September 4, 1891: Conveyed to John G. Harvey by the State of California under Certificate of Purchase No. 1780. This certificate also conveyed to Harvey the E½NE¼ and the S½ of sec. 36.

September 7, 1891: John G. Harvey assigned to N. B. Turner the E½ and SW¼ of sec. 36. Recorded October 3, 1893, in Book of Assignments, page 116, records of Tulare County July 2, 1895. Sold for nonpayment of taxes for years 1894–95 by Tulare County to F. A. Hyde, the E½ and SW¼ of sec. 36, June 25, 1896. Sold for nonpayment of taxes for years 1845–46 to L. A. Hyde, the E½ and SW¼.

January 29, 1898: California State Patent issued to N. B. Turner for E½ and SW¼.

February 3, 1898: Deed from N. B. Turner to F. A. Hyde.

February 4, 1898: Deed from F. A. Hyde to the United States for E½ and SW¼. Recorded on Tulare County records February 7, 1898.

February 21, 1898: Application made by F. A. Hyde to select S½ of SE¼ of sec. 1, T. 1 N., R. 16 E., Mount Diablo meridian, in lieu of W½NE¼ of sec. 36, T. 24 S., R. 31 E., Mount Diablo meridian, April 1, 1902. W½NE¼ patented to F. A. Hyde under Lieu Selection No. 22.

W½NW¼ Lieu Selection Wyoming 2765

September 11, 1890: Certificate of Purchase issued to Michael C. Purcell for the NW¼ of sec. 36.

April 28, 1896: Decree annulling Certificate of Purchase filed in Recorders Office, Tulare County.

July 14, 1898: Sold to State of California by Tulare County by tax deed recorded September 1, 1898.

April 4, 1898: Certificate of Purchase issued to Daniel W. Fulton, all of sec. 36.

July 15, 1899: Application No. 4248 by Daniel W. Fulton to California State Land Office.

February 13, 1900: State Patent No. 9880 issued to Daniel W. Fulton to all of sec. 36.

February 19, 1900: Land deeded by Fulton to F. A. Hyde. Recorded in Book 97 Deeds, page 135, records of Tulare County.

July 10, 1900: F. A. Hyde applied to select NW¼ of SE¼ sec. 29, T. 35 N., R. 80 W., sixth principal meridian, and NE¼SW¼, sec. 4, T. 39 N., R. 83 W., sixth principal meridian, Douglas Land District, in lieu of W½NW¼, sec. 36, T. 24 S., R. 31 E., Mount Diablo meridian, California.

August 22, 1923: Patent No. 914626 under Douglas 05594 issued for lieu selection Wyoming 2765.

NOTES ON CERTAIN LANDS WITHIN THE SEQUOIA AND KINGS CANYON NATIONAL PARKS AS AFFECTED BY THE FOREST LIEU SELECTION ACT, AND SUBSEQUENT ACTS

Possibly it is unnecessary to point out that between the years 1897 and 1905, during which years such selections were made, the lands to be conveyed to the United States, and then in private ownership, for the most part were school lands obtained from the State of California prior to the establishment of national forests and subsequent national parks.

In all cases, as far as the National Park Service is concerned, such lands were in national forests at the time they were subsequently conveyed in toto to the Sequoia or Kings Canyon National Park, as the case may be, which conveyances were under authority of specific acts of Congress or Presidential proclamations.

This Service, as far as we have been able to check, did not, under such interbureau conveyances, receive any records which would have indicated that in certain sections while deeds granting such lands to the United States had been recorded more than 50 years ago, yet such titles had not been accepted by the United States. There had been only one important case we had discovered until we had reason later to make a check with State of California authorities on certain school sections and subsequently with the Washington office of the Bureau of Land Management. This check showed that three parcels of 40 acres each within the Kings Canyon National Park were in "unspecified ownership." This was taken to mean that claimants to these three parcels might subsequently show up. This office as yet has not been notified of any action by such claimants.

As at this time the lands we are particularly concerned with have been placed in three groups, as follows:

GROUP 1

Lands understood to have been quitclaimed to the original owners or their heirs.

Sequoia National Park (see map)

Parcel 6: T. 16 S., R. 32 E., MDBM, sec. 16, E½NE¼, 80 acres. Quitclaimed to Clarke October 7, 1959. Deed also recorded by Ranch Dev. Co.

Parcel 7: T. 16 S., R. 32 E., MDBM, sec. 16, E½SE¼, 80 acres. Buhler and Beeson claim control. Deed also recorded by Ranch Dev. Co.

Parcel 8: T. 16 S., R. 31 E., MDBM, sec. 36, E½SW¼, 80 acres. Buhler and Beeson claim control.
Parcel 5: T. 14 S., R. 32 E., MDBM, sec. 36, NW¼NE¼, 40 acres. Buhler and Beeson claim control.

Kings Canyon National Park (see map)

Parcel 4: T. 14 S., R. 28 E., MDBM, sec. 35, S½NW¼, 80 acres. Buhler and Beeson claim control.
Parcel 1: T. 9 S., R. 30 E., MDBM, sec. 36, SE¼NW¼, 40 acres. Buhler and Beeson claim control.
Parcel 2: T. 9 S., R. 30 E., MDBM, sec. 36, SE¼, 160 acres. Buhler and Beeson claim control.
Parcel 3: T. 10 S., R. 30 E., MDBM, sec. 16, S½SE¼, 80 acres. Buhler and Beeson claim control.
Total acreage 8 parcels, 640 acres.

GROUP 2

Lands believed to be in private ownership with possibility of subsequent legitimate claimants.

Kings Canyon National Park

T. 9 S., R. 30 E., MDBM, sec. 36, NE¼NE¼, 40 acres. BLM records show title "unspecified."
T. 11 S., R. 30 E., MDBM, sec. 16, SW¼SE¼, 40 acres. BLM records show title "unspecified."
T. 11 S., R. 36 E., MDBM, sec. 16, SW¼SE¼, 40 acres. BLM records show title "unspecified."
Total acrage 3 parcels, 120 acres.

GROUP 3

Land status recently checked with Washington office, BLM, by reason of new recording, but ruled to have been conveyed to and title accepted by United States and still in title of United States.

Sequoia National Park

T. 14 S., R. 29 E., MDBM, sec. 36, N½NW¼, 80 acres. Deed recently recorded by Ranch Devel. Corp.
T. 14 S., R. 29 E., MDBM, sec. 36, SW¼NW¼, 40 acres. Deed recently recorded by Ranch Devel. Corp.
T. 14 S., R. 32 E., MDBM, sec. 36, E½NE¼, 80 acres. Deed recently recorded by Ranch Devel. Corp.
T. 14 S., R. 32 E., MDBM, sec. 36, SW¼NE¼, 40 acres. Deed recently recorded by Ranch Devel. Corp.
T. 18 S., R. 33 E., MDBM, sec. 16, NE¼, 160 acres. Deed recently recorded by Ranch Devel. Corp.
T. 18 S., R. 33 E., MDBM, sec. 16, SW¼SE¼, 40 acres. Deed recently recorded by Ranch Devel. Corp.
Total acreage 6 parcels, 440 acres.

DATA ON PARCEL 4, REDWOOD MOUNTAIN AREA, AS DESIGNATED ON MAP OF KINGS CANYON NATIONAL PARK, NATIONAL PARK SERVICE

This tract, which we understand has been quitclaimed by the United States to the original owners or heirs, is described as the S½NW¼ sec. 35, T. 14 S., R. 28 E., MDB&M, and is said to contain the following timber:

Sugar Pine	592,000 FBM
Ponderosa Pine	489,000 FBM
White Fir	1,008,000 FBM
Incense Cedar	246,000 FBM
Total	2,335,000 FBM

The present owners maintain it now has a value of $40,000. It has not been cruised or appraised by the National Park Service as yet.

Mr. LANDSTROM. That is all.

Mrs. PFOST. Are there further questions of the Department of the Interior witnesses?

Mr. WALLBRICK. I am Arthur C. Wallbrick. I would like to ask Mr. Hochmuth——

Mrs. PFOST. Just a minute. The rules of the House do not permit questions of witnesses from the audience. I am sorry the Chair did not make it clear that questions should come from congressional members, counsel, and consultant.

Mr. SISK. Madam Chairman, Mr. Wallbrick, if he wishes, can make a statement to the committee later, and we will be happy to hear him.

Mr. WALLBRICK. I intend to do that.

Mr. SISK. I understand that.

Mrs. PFOST. Thank you very much, gentlemen.

The next witnesses will be the Forest Service representatives. Mr. Reynolds G. Florance, Assistance Director of the Forest Service; Mr. Charles A. Connaughton, regional forester from this area; Mr. Walter J. Puhn, forester supervisor of the Sierra National Forest; and Eldon Ball, forest supervisor of the Sequoia National Forest.

Will you come forward? Do each of you gentlemen have statements?

Mr. CONNAUGHTON. I will make the statement, Madam Chairman.

Mrs. PFOST. The others do not have prepared statements; is that true?

Mr. CONNAUGHTON. Yes.

Mrs. PFOST. You may proceed.

STATEMENT OF CHARLES A. CONNAUGHTON, REGIONAL FORESTER, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE; ACCOMPANIED BY REYNOLDS G. FLORANCE, DIRECTOR, DIVISION OF LEGISLATIVE REPORTING, FOREST SERVICE; WALTER J. PUHN, FOREST SUPERVISOR, SIERRA NATIONAL FOREST; AND ELDON E. BALL, FOREST SUPERVISOR, SEQUOIA NATIONAL FOREST

Mr. CONNAUGHTON. Madam Chairman and members of the committee, I welcome this opportunity to discuss the unperfected lieu selection land situation within the national forests.

On October 14, the Acting Secretary of Agriculture sent Congressman Aspinall a favorable report on H.R. 9142. This report, which is before your committee, recommended enactment of legislation to accomplish the purpose of H.R. 9142 with one minor perfecting amendment. We believe that under the circumstances title to these lands should be confirmed in the United States, with provision for such compensation to the grantors or their successors in interest as Congress finds equitable.

Briefly, the history of these lands is as follows: In 1897 legislation was enacted which authorized the owner of a tract of land or of an unperfected bona fide claim within the limits of a national forest to reconvey such land to the United States and select in lieu of it an equal acreage of vacant public land open to settlement. In 1905 Congress repealed this lieu selection authorization but protected previous valid contracts under the 1897 act and provided that selections previously made could be perfected.

In 1922 Congress again enacted legislation concerning these lands. It provided that where persons in good faith had relinqushed lands to the United States under the 1897 act but had failed to place their lieu selections on record prior to 1905 repeal act or the lieu selections were rejected, the Government could accept title to the relinquished lands and in exchange could patent not to exceed an equal value of national forest lands or could permit the grantor to cut an equal value of national forest timber. This law also authorized reconveyance of the lands to the grantors if a satisfactory exchange was not agreed upon. It required that satisfactory proof of the reconveyance of the lands to the United States be filed within 5 years of the date of the act.

In 1930 Congress enacted legislation which authorized and directed the Secretary of the Interior to execute a quitclaim deed to the party or parties entitled thereto in situations where a conveyance of land had been made to the United States and recorded and the the application in connection with which the conveyance was made was withdrawn or rejected. This act, which is without time limitation has been construed as applyng to conveyances made under the 1897 lieu selection authorization for which the lieu lands were not received by the grantor.

Following passage of the 1897 law, many tracts of land within the national forests were reconveyed to the United States and lieu selections made. The majority of these lieu selection transactions were completed and the lands conveyed to the Government became parts of the national forests. In some cases, however, lieu selections either were not filed or for some reason were not carried to completion. Deeds conveying the private lands to the Government were executed and placed on record. Some of the grantors who did this obtained reconveyances under the 1922 act or utilized the exchange provisions of that act. Others did not do this. As a result there are scattered among national forest lands in many of the Western States tracts of land to which record title is in the United States by reason of the old conveyances. As to these the Government has not accepted the title or conveyed the lieu lands or provided other consideration.

The deeds to the United States for these tracts were made from 55 to 60 years ago. The records on many of them are obscure and often it is difficult to ascertain the correct status of these tracts without a laborious search of the public land records. We know that lands in this status are scattered through many of the national forests in the Western States and that there may be some of them in national parks created from national forests.

We do not have a reliable estimate of the total acreage that may be in this status. Regional records indicate that in nine national forests there may be as much as 45,000 acres of lands which have been so conveyed to the Government under the lieu selection act and for which the lieu selections were never perfected. The value of these lands is indefinite as there has been no attempt to make an inventory of the resources on all of these areas. We know that some have strategic value in national forest administration, including locations essential to necessary road rights-of-way and important recreation and public service sites. We have found also that through uncertainty as to their correct status we have issued permits on or otherwise encumbered some tracts which subsequently have been reconveyed to private ownership under the provisions of the 1930 act above mentioned.

In most cases during the 55 to 60 years since the deeds of the United States were recorded, there have been no acts of control of assertion of ownership to these lands by the grantors or their successors. Most of the individual grantors are probably dead and in many instances their successors are not known or are widely scattered. Because the title to these tracts is shown on local county records as being in the United States, few of them have been paying local property taxes. Due to the fact that these tracts normally are intermingled with national forest lands and because the owners generally have not been known, the Government has had to extend fire protection to the lands and give them some administration to assure protection of the nearby public properties. For most of these lands no claims have been asserted in the over half century since they were conveyed to the Government and none of the normal acts of ownership or responsibility have been exercised by the grantors or their successors.

Before World War II the lands in question had comparatively low values. Within the last 10 to 15 years, however, values have risen sharply. A rapidly expanding population, particularly in California, has given new emphasis to land values. Improved road systems have made some remote lands accessible to population centers. A sharply expanded interest in outdoor recreation has added value to mountain wild lands. These and other related factors have given new significance to these lands.

In the face of increasing values a keen awareness in land ownership has developed. The stakes are high and clarification of land titles is very meaningful. During this period it is natural that there is a new interest in the title to the reconveyed lands.

This interest has moved in two directions.

The first involves the assertion of ownership by heirs or other claimed successors of the original owners to the reconveyed lands. When valid claim of title to the reconveyed lands existed quitclaim deeds have been requested. Several such applications have been made, largely in recent years, and some deeds reconveying the lands to the applicants have resulted. A number of additional applications for quitclaim deeds are pending. In some cases, as for example, where timber has been cut and sold from the land by the Forest Service in connection with the administration of the national forest, the owner has requested and received reimbursement for the sale price of the timber less the cost of timber sale administration.

A second and much less direct approach has developed under that authority of section 610 of the Revenue and Taxation Code of the State of California. This involves an attempt to inject a completely new party without any previous claim into the chain of title. By this method the county assessor is requested to list the new party as an assessee for payment of taxes for a parcel of the lands conveyed to the United States. If this is done and taxes are paid over a period of 5 years the assessee is in a position under California law to assert claim to title and to ask for a quitclaim deed from the United States just as an original owner or his heirs might do. In following developments under this approach the Forest Service has found that some lists furnished assessors by such prospective claimants include land descriptions for which the lieu selection clearly has been completed and which official records show definitely as the property of the United States.

In closing, I would like to say that the Department believes that this problem in land ownership should be solved and is glad that this committee and Congressman Sisk are initiating remedial action. Mr. Reynolds Florance, Director of the Forest Service's Division of Legislative Reporting from Washington is here today. If you have questions concerning the facts or the Department's position on the bill, Mr. Florance and I will try to answer them.

Thank you.

Mrs. PFOST. Thank you very much.

The Chair recognizes the gentleman from Oregon, Mr. Ullman.

Mr. ULLMAN. I have three quick questions: First, is it your understanding that the passage of this legislation would leave open the in-lieu route whereby they could trade lands?

Mr. CONNAUGHTON. Mr. Florance has that question in mind.

Mr. FLORANCE. Madam Chairman, I am happy to be out here and take part in these hearings and to answer any questions in helping the committee in consideration of this bill.

Mr. Ullman, I do not believe that this legislation goes into the question of the right of persons to complete lieu selections. As I understand the situation—and I would like to make it clear that while I am an attorney and was formerly associated with the Office of the General Counsel in the Department, I am now in the Forest Service and not actually representing the General Counsel's Office, and therefore I cannot express the views of that office.

As I understand this legislation, it does not renew or add anything to the right to pursue the lieu selection course. If the lieu selections have already been initiated, my understanding is they can be completed. But I do not think this legislation would permit them to initiate any new lieu selections.

Mr. ULLMAN. Can we assume when the land was reconveyed to the United States that in all instances in-lieu applications were made? Was this a simultaneous operation?

Mr. FLORANCE. My understanding is that in many instances when deeds to the United States were filed, lieu selections were not actually made at the time.

Mr. ULLMAN. But are these people automatically making application for in-lieu property, and is that held open over the years?

Mr. FLORANCE. Perhaps it would be helpful if I could go back and review just a little bit.

Under the provisions of the 1897 act persons who had either homestead or other types of entry or patents to land could relinquish their entries or reconvey the patented land and make new selections. Now, that right to do that was terminated in 1905, and any lieu selections that had been made at that time could be pursued to completion but the right to make new lieu selections was cut off in 1905.

Then in 1922 the right to make additional lieu selections was reextended by the 1922 act for a limited period of time. Now, that period of time has expired and today there is no right to file any new lieu selections.

Mr. ULLMAN. How does the 1930 act affect that right?

Mr. FLORANCE. The 1930 act dealt only with the reconveyance of the lands that had been formerly reconveyed to the United States prior to 1905; that is, of the lands that we are dealing with. Actually, the

1930 act covered other things, but that is the phase we are dealing with today.

Mr. ULLMAN. In other words, in your opinion, there is some question whether they can pursue the in-lieu applications?

Mr. FLORANCE. Yes; they can pursue the in-lieu applications where the in-lieu selections had been initiated in the proper time, but they cannot initiate new lieu selections.

Mr. ULLMAN. I see. This involves a rather wide area. You do not know the percentage of the lands in question that have made in-lieu applications and those that have not?

Mr. FLORANCE. No; I do not. Basically, I think it is right to say that the problem which is the concern today to the Forest Service is those lands for which the lieu selections had not been made and it is not the problem of pursuing and consummating the lieu selections which have been initiated.

Mr. ULLMAN. In other words, you question whether they have the right to make in-lieu selections now on these lands where no formal application has been made?

Mr. FLORANCE. That is right.

Mr. ULLMAN. This is an important point in my mind. Mr. Hochmuth of the Bureau of Land Management said they have done a lot of legal work in these claims, and they are not going to do it hereafter, but place the burden of proof upon the applicant. What is the situation in that respect with the Forest Service?

Mr. FLORANCE. The Forest Service has no responsibility in connection with that particular activity.

Mr. ULLMAN. That is the responsibility of the Bureau of Land Management?

Mr. FLORANCE. That is correct.

Mr. ULLMAN. Thank you.

Mrs. PFOST. I have a quick question or two.

I notice on page 5 of your statement, Mr. Connaughton, you say that a much less direct approach has developed under the authority of section 610, which involves an attempt to inject a completely new party without any previous claim into the chain of title. You say under the California law that the county assessor is requested to list the new party, and that if taxes are paid over a period of 5 years, then this party is in a position to assert claim. Am I interpreting that properly?

Mr. CONNAUGHTON. That is my understanding; yes.

Mrs. PFOST. Do you know if there have been several people who have secured a quitclaim deed under this provision?

Mr. CONNAUGHTON. No; I do not know there have been any at this time under this approach.

Mrs. PFOST. But have people attempted to acquire property by this approach?

Mr. CONNAUGHTON. The only thing I have any knowledge of is this particular instance.

Mrs. PFOST. Just one?

Mr. CONNAUGHTON. Yes.

Mrs. PFOST. You know of only one instance?

Mr. CONNAUGHTON. That is right.

Mrs. PFOST. Do any of you other gentlemen know of any other instances?

Mr. FLORANCE. No.
Mr. BALL. No.
Mr. PUHN. None.
Mrs. PFOST. The Chair recognizes the gentleman from California, Mr. Sisk.
Mr. SISK. Just to clarify that a little bit, Mr. Connaughton, the line of questioning of the Chair with reference to this request on the part of assessors to put this property on the tax rolls, of course this request has been made of a number of counties here in California; is that right?
Mr CONNAUGHTON. Yes.
Mr. SISK. Do you know if by only one company, or has there been more than one company involved?
Mr. CONNAUGHTON. I am only aware of the one instance. When I say of one, that is a collective group of several counties involved.
Mrs. PFOST. Will the gentleman yield?
Mr. SISK. Yes.
Mrs. PFOST. Would you care to name the company involved?
Mr. CONNAUGHTON. I believe it is known as the Ranch Development Corporation or company.
Mrs. PFOST. Thank you, Mr. Sisk.
Mr. SISK. The point I wanted to make clear is that apparently they have requested various tracts in various counties.
Mr. CONNAUGHTON. Yes.
Mr. SISK. Is it your understanding that some counties have put them on the rolls, that some counties have refused to do so?
Mr. CONNAUGHTON. I understand there is a variation in the response from the counties, and just exactly the current status in each county, I am not acquainted with, but there has been a different response in the various counties, yes.
Mr. SISK. I understand we will hear testimony later on regarding this specific matter, but it is of some considerable interest.
In fact, are you aware, Mr. Connaughton—I realize this might not specifically affect your department, but it is my understanding that they have even requested lands to be put on the tax rolls that are lands where title is held by private individuals and has been over a period of 20, 30, or 40 years.
Mr. CONNAUGHTON. I only had heard that by rumor. I do not have any facts.
Mr. SISK. That again is something we will hear more about today, Madam Chairman.
I have one other question to ask Mr. Puhn or Mr. Ball, or any of the other gentlemen. To what extent is this problem causing real concern to you with reference to administration of these areas?
I would like to direct this to you, Mr. Puhn, in the Sierra Forest. Does this create any problem?
Mr. PUHN. These areas do have a potential conflict with a number of things that we do. We have the instance already where we did complete a timber sale, and this was a timber sale to put the land in good growing condition, part of a timber sale unit, and later it was quitclaimed. We feel that it is an interference with our timber management plan.
That same parcel and other parcels are integral parts of our watershed of the Sierra National Forest serving the water systems that have

been developed in both the San Joaquin and Kings River watersheds, which we feel is highly important that those watersheds be kept in a productive condition. That is what our plans of management were geared to.

There is interference to a sizable degree with the public use of the forest. One of these tracts that is now quitclaimed encompasses a mountain lake.

Some of these lands that Mr. Connaughton spoke of, there has been a request they be put on the tax roll, and they include areas in our wilderness areas, dedicated wilderness areas in the national forest.

The Sierra Forest is quite extensively, and, you might say, intensively used for hunting, and should any of these lands, because of the desire of the occupier become posted or closed to hunting, it would naturally have an effect on the public use in that way.

That is a rough sketch of the problems.

Mr. SISK. Thank you, Mr. Puhn.

Mr. Ball, do you have any comment? I am sure that down in the Sequoia National Forest you have similar problems.

Mr. BALL. We have problems similar to those explained by Mr. Puhn. In addition, we have had at least one case where a valid mining claim was in existence on a parcel that was quitclaimed and resulted in considerable friction between the mining claimant and the people receiving the quitclaim deed.

We had another case in which we had made available material for highway construction in which the quitclaim deed had been given and the question then was whether the United States was liable for the material that had been used in highway construction.

Those, along with the items mentioned by Mr. Puhn. They are similar on all fours.

Mr. SISK. Thank you, Mr. Ball.

As I mentioned awhile ago, I will not pursue the question further. I am sure later on there will be a number of detailed questions we may have for the Forest Service, but in view of the time I will not pursue it further now.

Mr. ULLMAN. Will the gentleman yield?

Mr. SISK. I will be glad to yield.

Mr. ULLMAN. I would like to ask Mr. Connaughton, These lands in question have been managed by whom during the past 60 years?

Mr. CONNAUGHTON. By the Federal Government under jurisdiction of the U.S. Forest Service.

Mr. ULLMAN. In other words, we have a situation where they had a valid claim 60 years ago, and the Federal Government has managed the property for 60 years under Federal sustained yield programs, and yet these people are making claims now that give them the full title to this property?

Mr. CONNAUGHTON. That is right, a quitclaim deed.

Mr. ULLMAN. With no consideration whatsoever for the management of the property?

Mr. CONNAUGHTON. There has been some consideration in one case that was mentioned where timber had been cut. There the cost of administration of the sale was deducted from the amount that was due the owner.

Mr. ULLMAN. This was not management, this was the administration of the sale of timber.

Mr. CONNAUGHTON. That is right, and that is the only charge that has been levied against the owners receiving the quitclaim deed.

Mr. ULLMAN. If this had been in private owners, would the operators have had to pay any local taxes?

Mr. CONNAUGHTON. Undoubtedly.

Mr. ULLMAN. They would have had to pay taxes over a 60-year period?

Mr. CONNAUGHTON. Undoubtedly. Any property assessed tax would obviously be levied against that land.

Mr. ULLMAN. I think the committee should certainly take those factors into consideration in this very complex problem.

Thank you.

Mrs. PFOST. Are there further questions?

Mr. Landstrom has some questions.

Mr. LANDSTROM. Do you or any of the gentlemen have map information or aerial photographs or any material which describes or identifies any of the tracts that have already been quitclaimed in these two national forests, Kings or Sequoia?

Mr. CONNAUGHTON. Yes, we do. We have both general maps which show the relation of the land to the forest as a whole, and aerial photographs showing individual parcels in relation to specific local areas.

Mr. LANDSTROM. Do you have copies to hand to the committee?

Mr. CONNAUGHTON. We certainly do and will be glad to leave them with you.

Mr. LANDSTROM. If you could accept those for the file, Madam Chairman.

Mrs. PFOST. Without objection, the maps will be placed in the file.

Is there objection?

Hearing none, it is so ordered.

Are there further questions?

Mr. Witmer has a question.

Mr. WITMER. I would like to ask the same question with respect to the Forest Service I have already asked with respect to the Bureau of Land Management. The names of the Ranch Development Corp. and Messrs. Beeson and Buhler, I believe, have cropped up.

Were any of the officers of that corporation or either of those gentlemen ever employees of the Forest Service?

Mr. CONNAUGHTON. The Ranch Development Corp., I am not acquainted with the owners of stockholders in that company. Buhler and Beeson have been members of the Forest Service in the past; yes.

Mr. WITMER. Did any of the transactions which are now involved in this legislation originate while or immediately after they were employees?

Mr. CONNAUGHTON. Not while they were employees. Both Beeson and Buhler retired from the Forest Service some little time ago. I do not have the dates at hand, but within, say, the past 5 years. They have participated in some of these activities since associated with this clearing of these land titles.

Mr. WITMER. While they were employees of the Forest Service, did either of them ever raise to their superiors any question as to whether this sort of a situation might develop under the law as it then stood?

Mr. CONNAUGHTON. Not to my knowledge.

Mr. WITMER. Did the Department or the Forest Service ever raise any question with respect to the propriety of any of their acts since they have left the Forest Service?

Mr. CONNAUGHTON. No.

Mr. WITMER. One other question, which perhaps cannot be answered without considerable thinking about it, but what portion of the present value of these lands with the forest on them would you attribute to the management of the Forest Service over the last 60 years?

Mr. CONNAUGHTON. That is almost impossible to generalize on. In some cases it is quite valid and quite important and in other cases the other related aspects of management have had more to do with it than, say, the efforts of the Forest Service. I would almost have to handle that tract by tract.

As a case in point, one tract that I have in mind, the significance is completely dominated by the fact a transcontinental railroad crosses it. So from the standpoint of the Forest Service actions, it would be rather meaningless.

In another case where a Forest Service timber access road approaches and there is timber management involved, the value of that land is related very strongly to the efforts of the Forest Service.

Mr. WITMER. Certainly 60 years of management—fire protection and general supervision—has cost the Government a considerable amount. My observation is now in terms of cost, rather than value.

Mr. CONNAUGHTON. That is part of the whole complex of national forest management. You could naturally assume, I believe without doubt, that the cost of management of this land has been on the average about what other acres of uncontested land may be. In other words, I would say on the average it is about the same as other land that is within the national forest.

Mr. WITMER. Thank you very much.

Mrs. PFOST. Are there further questions?

If not, thank you very much, gentlemen.

Mr. CONNAUGHTON. Thank you, Madam Chairman.

Mrs. PFOST. Our next witness will be Mr. Clifford Ely. Is he here?

Mr. ELY. Yes, I am.

Mrs. PFOST. Will you please give your full name for the record.

STATEMENT OF CLIFFORD J. ELY, SECRETARY-TREASURER, RANCH DEVELOPMENT CORP., LOS ANGELES, CALIF.

Mr. ELY. I am Clifford J. Ely. I am Secretary and Treasurer of the Ranch Development Corp.

Madam Chairman, and members of the committee, before I go into the speech I prepared here I would like to clarify one situation which Mr. Hochmuth of the Department of the Interior has made against our corporation.

I would like to put into the record that his accusations against our corporation are untrue, unfounded, and that the Bureau of Land Management has continuously wrote us letters, which I can furnish the committee with copies of hereafter. We have furnished the Bureau of Land Management with complete abstracts of titles of

these lands, and showing our ownership, they have issued us quitclaim deeds to them, on which we have a title policy from the title insurance and trust companies.

In many other occasions where there has been a conflict of ownership on these lands, our corporation has deeded these lands back to the record owners, and the records of the counties will show this.

Mr. Hochmuth has said in open words to this effect: That our corporation is the one that has not done any legal work on it. I wish to show here today that our corporation is the owner of these lands, we have a complete chain of title on them, we have spent many hundreds of thousands of dollars on our lands, and we have never asked the Bureau of Land Management for a quitclaim deed to any land unless we had a title report to back it up.

Now, in the State of California here the records of the Bureau of Land Management do not agree with the records of the Bureau of Land Management in Washington. We have asked continuously what records we should agree with, out here or the ones back there.

The title insurance and trust companies have examined the records here in Sacramento and in Los Angeles and have shown that the reconveyances were never accepted, and that the lieu selections were never completed on various parts of the property. They went ahead and issued us title reports, which I have here with me showing these lands to be vested in the Ranch Development Corp. except a deed back from the Government. And it goes on to tell this.

Yet the records here show the lieu selection was never completed.

Since the controversy came up between the two offices of the Bureau of Land Management here and in Washington, D.C., the title companies now will not issue a title policy on a piece of property until they have the Washington OK on it, too, because there has been a conflict between the two offices in California and Washington, D.C.

He also stated we have put lands on the tax rolls over here we have no ownership of and all of these things. This is untrue. At the time these lands were put on the tax rolls over here we had written to the Bureau of Land Management and were told that the lieu selections had not been completed. Then later on they come and tell us they had been completed, that they had made a mistake.

The records at Sacramento and Los Angeles were examined and they show these lieu selections were never completed. In fact, the title companies will back this up by the reports that I have that showed these things.

So I would like to state that the facts here as shown here are not true and I do not think that Mr. Hochmuth had much time to examine the records or he would have found these to be the facts in this case.

Mr. Sisk. Madam Chairman?

Mrs. Pfost. Yes, Mr. Sisk.

Mr. Sisk. Mr. Ely, the Ranch Development Corp., which I understand you represent, is not on trial here today, you understand?

Mr. Ely. That is true.

Mr. Sisk. Of course, the intent of the committee is to hold a hearing on H.R. 9142. I think later on I may have some questions with reference to your charges toward Mr. Hochmuth. It was my understanding his statements were in answer to questions and probably involved no greater charge than I have made.

If you have a statement with regard to your request regarding putting lands on the tax rolls of counties up in this area, I would hope you would go into this in your statement. But, on the other hand, I want to make clear that you nor no one else is on trial. We are considering the need of a bill here to clean up the situation.

Thank you, Madam Chairman.

Mrs. PFOST. Thank you very much, Mr. Sisk, because we do want you, Mr. Ely, to understand, and the other people who are here today, that we are trying to get at the basic problem, if it is possible at all, and we have to ask these various questions in order to be able to understand just what the controversy is about.

There is just one thing I should like to ask. Did I understand you correctly to say that where you have requested a piece of property be assessed on the records, that later on you have deeded it back to individuals?

Mr. ELY. Yes, we have. We have deeded it back to the record owners when we found out the lieu selection, when we were informed later by Washington that the lieu selections had been completed. And we deeded these properties back to the record owners regardless of whether it was the U.S. Government or who it may be. The title company has informed us which way to make the deed out. We have made it out and it has been recorded.

Mrs. PFOST. That is without remuneration to you, then?

Mr. ELY. That is right; we never got any money for it, but just did it because the records showed it had not been completed and the records back there showed it had been.

I would like to bring out one instance where the records here—this is to express the negligence on the Bureau of Land Management's part on these records. I would like to bring out one point to the committee.

We have a particular piece of land in Tulare where we had a perfect deed, and Clarke happened to be the man who owned the land and Clarke gave us the deed.

I wrote to the Bureau of Land Management in Washington, D.C., and they told me the selection on this particular piece of land had been completed, that the man had accepted land in lieu thereof in Wyoming. They gave me the lieu selection number. I in turn wrote for a copy of the patent. I in turn went back to Wyoming and investigated and found out the patent of this land had been set aside by a Federal court order in 1909, that the land had already been homesteaded back there by a predecessor and therefore the Clarke patent has been set aside, which the U.S. Government gave him.

To this day, even though I am entitled to the land in Tulare, to which I have a perfect deed and chain of title, the Bureau of Land Management has refused to give me the deed and refused to recognize the court decision setting this patent aside.

Also, Attorney General Moss' decision here on the tax problem about putting lands on the tax rolls. I want to go into this but I will be happy to leave this to the committee. That happens to mention our corporation's name where we have had a lot of trouble with some of the counties, showing we owned these lands because they were vested in the United States of America. They had to have an opinion of the attorney general, and his opinion is here and states specifically the

fact we are entitled to be put on the tax rolls. I think that should satisfy the tax situation.

This is the legal journal and you can get a copy from the attorney general's office.

Mrs. Frost. Without objection, the article referred to will be placed in the file.

Hearing no objection, it is so ordered.

Before you start your statement, Mr. Ely, the Chair has observed that you have quite a lengthy statement, so would you highlight it, if possible?

Mr. Ely. I will do my best, but as I told Congressman Joe Holt, we are the largest landowner involved in this thing and we must be able to tell the committee our side of the story.

Mrs. Frost. You may proceed.

Mr. Ely. Honorable sirs, and members of the committee:

I am appearing on behalf of the Ranch Development Corp. who own thousands of acres of land in the national forests throughout the State of California. My name is Clifford J. Ely and I am the secretary-treasurer of the Ranch Development Corp., and I reside in Los Angeles, Calif.

Our corporation from 1950 through 1957 purchased many of these lands which were formerly used as base lands under the Forest Exchange Act of 1897. We have spent many thousands of dollars in running abstracts of title on these lands and have obtained the documents and deeds necessary to make the title to these lands insurable, and had to spend additional sums of money for legal and title company services and procure copies of the documents needed to perfect the chain of title.

To illustrate this, I will refer to a 160-acre parcel of land which our corporation purchased in the early part of 1956, being our ranch site No. 1914 and bearing legal description of the east half of the northeast quarter and the east half of the southeast quarter of section 16, township 16 south, range 32 east, Mount Diablo base and meridian in Tulare County, Calif. It was necessary to run the chain of title on this land back to the time it was purchased from the State of California and to get photostats of every document affecting the title to this land. The above mentioned 160 acres of land was purchased from the State of California on July 7, 1900, by Mr. C. W. Clarke and patent was recorded July 12, 1900, in book "U", page 117 of patents. Mr. C. W. Clarke then deeded this land to the United States of America on July 10, 1900, and used it as base land under the Forest Exchange Act of 1897. The said deed to the United States of America being recorded on July 12, 1900, in book 100, page 13 of deeds, in the official records of Tulare County.

After many years of waiting for the United States of America to make up its mind whether they would accept C. W. Clarke's land under the Forest Exchange Act of 1897 and whether or not they would give C. W. Clarke other lands in lieu thereof, the Government then repealed the Forest Exchange Act of 1897 in 1905, and the lieu selection of C. W. Clarke was never completed.

The title to this land then passed to various individuals and companies, and there were a number of court actions wherein this land was involved. The findings of these court actions had to be examined by our legal staff, and each document pertaining to the chain of title had

to be inspected by the title and abstract companies. This said land was then purchased by our corporation in 1956, and title passed to us.

After the Ranch Development Corp. acquired use of the land in 1956, we tried to have it put on the tax rolls and were informed that it could not be done as the records of the tax assessor showed this land to be vested in the name of the United States of America. After over a year of correspondence back and forth with the tax assessor's office we were finally forced to make a trip to Vililia and talk to the tax assessor and prove to him that this was privately owned land even though it was in the name of the United States of America. At last, in 1958, we were successful in having this 160-acre parcel of land put on the tax rolls of Tulare County. However, from 1900 to 1958, a total of 58 years, the county of Tulare did not receive a penny in tax revenue on this parcel of land because of the deed given by Mr. C. W. Clarke to the United States of America. The amount of taxes our corporation paid on this parcel of land in 1958 was $100.03. If the county had averaged $60 a year in tax revenue on this particular 160-acre parcel of land for 58 years they would have received $3,480. As it was, they received no tax revenue until our corporation purchased this land and through our efforts and determination had it put on the tax rolls.

After lengthy correspondence with the Bureau of Land Management we obtained a quitclaim deed from the United States of America on September 8, 1957, which removed the cloud on our title which was created by the deed given by C. W. Clarke to the United States of America on July 10, 1900, when this land was used as base land under the Forest Exchange Act. The application for said quitclaim deed was made to the Bureau of Land Management under section 6 of the act of April 28, 1930 (46 Stat. 257, 43 USC. 872), which said act provided that an owner of land which was used as base land under the Forest Exchange Act was entitled to receive a quitclaim deed back from the United States of America where the lieu selection was never completed. The quitclaim deed from the United States of America was recorded on October 7, 1957, in book 2016, page 373 in the official records of Tulare County.

The Title Insurance & Trust Co. on January 30, 1959, issued a title insurance policy No. 120604 insuring the title of this land in the name of the Ranch Development Corp. The expenses of purchasing the above-mentioned land and procuring the necessary documents, legal services, abstract and title company services, cost our corporation $4,500, which is over $27 an acre, and it took us from April 1956 to January 30, 1959, to clear the title on this land.

At the present time our corporation is waiting for a number of quitclaim deeds back from the United States of America to clear the clouds on our titles and applications for these quitclaim deeds to have been made under section 6 of the act of April 28, 1930, by our corporation to the Bureau of Land Management over the past many years. We have been promised that these quitclaim deeds would be forthcoming, but to this date we have received only a few of them.

On September 19, 1959, we were notified by the Bureau of Land Management that they could not issue any further quitclaim deeds because of a bill, H.R. 9142, introduced by Congressman B. F. Sisk.

Now after spending many thousands of dollars in legal fees, abstracts, title reports, surveys, serial mapping, and cataloging said lands and only needing a quitclaim deed back from the United States of America to remove the cloud from our title so that the title to our lands can be insured, the Bureau of Land Management again notified us that it is impossible to issue such quitclaim deeds because of the introduction of Congressman Sisk's bill H.R. 9142. Our corporation feels that since this bill was introduced by Congressman Sisk, has not as yet been passed by Congress, and therefore is not a law, that the Bureau of Land Management should abide by the present law passed by Congress in 1930.

By the refusal of the Bureau of Land Management to abide by the present law now in effect it may cause our corporation further unnecessary expense in litigation to clear the cloud on our title to our lands created by the deed to the United States of America when these lands were used as base lands and it will be a tremendous increase in our cost per acre of these lands.

In our opinion, forcing us and the other owners of these lands to sell them at $1.25 per acre and not at the current market value is outright confiscation. If the Government wishes to purchase our lands and is willing to pay the current market price for them we would be only too glad to give them first opportunity to purchase same.

However, if the United States of America feels that these lands are necessary and needed for public purposes by the Government they may condemn our lands by eminent domain proceedings, thus assuring us that we will be paid the current market price for our lands.

Under the Constitution of the United States of America and the Constitution of the State of California, I believe we, as free Americans, have the right and privilege to sell our lands to whomever we please and there are many cases of record upholding and explaining said constitutional provisions. Therefore, we feel that this bill is unconstitutional.

In a press release dated September 23, 1959, Representative Gracie Pfost, Democrat, from Idaho, and Chairman of the House Subcommittee on Public Lands, states and I quote "that title to these lands was held by the Government for over 50 years." This is absolutely untrue. These lands are not owned by the Government. They are privately owned lands situated within the boundaries of the national forests and the only connection the United States of America has with these lands is that they have a blur on the title causes when a deed was issued to the United States of America when the land was used as base land.

There are many cases where the State, Federal, and United States Supreme Courts have ruled that title to the base lands does not pass to the United States of America until the deed is accepted by the General Land Office and the lieu selection completed. These cases further held that this offer could be withdrawn at any time by the grantor.

In a Supreme Court case, being *Roughton* v. *Knight*, 219 U.S. Reports, page 537, the Supreme Court held that the party who conveys land to the United States of America and deposits deed pursuant to the Federal Exchange Act does not lose title to the various lands until they are accepted by the United States of America and the lieu selection completed.

Congressman Sisk states, in his press release of October 23, 1959, that there are over 100,000 acres of land involved. Therefore, the counties in which these lands are located have lost thousands of dollars in taxes due to the negligence of the Bureau of Land Management and their refusal in some instances to issue a quitclaim deed back to the owners of these base lands as provided by law. Therefore, in some counties, vast amounts of acreage are still not on the tax rolls even though they are private owned lands and they have escaped taxation for many years because they appear on the tax assessor's records as being vested in the name of the United States of America. Our corporation feels that it is not the fault of the owners of these lands that the United States of America failed to act in accepting the proposed exchanges under the Forest Exchange Act of 1897 and we feel that the Government has had plenty of time since 1905, when the Forest Exchange Act was repealed to base any claim they may have had upon these lands. Now 54 years later, the Government claims ownership of these lands. If the Government did own these lands, I am quite sure that Congress would not have passed the act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 485) and the Act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872) which provided that the Government would execute quitclaim deeds back to the owners of these lands. Over a period of 54 years the Government has been issuing quitclaim deeds back to the owners. Now suddenly Congressman Sisk, in his bill, has asked to have this act repealed and in his press release of September 23, 1959, he charges—

Raiding of Sierra Forest Lands by individuals and companies who are trying to acquire title to these lands through a quirk in the law.

I do not know what "quirk in the laws" Congressman Sisk is referring to unless it is to the laws passed by Congress in 1922 and 1930, and I am quite certain Congress would not have passed such a law if they considered it to be a quirk.

Representative Pfost, in her press release of September 23, 1959, refers to these lands as being worth many hundreds of thousands of dollars but yet Congressman Sisk's bill provides just $1.25 per acre for these lands.

To sum up the position of the Ranch Development Corp. in opposing Congressman Sisk's bill, H.R. 9142, we feel that his bill is unfair and unjust, unconstitutional, unnecessary, and outright confiscation of privately owned lands, for the following reasons:

1. The lands involved are not Government owned but are privately owned lands and should be treated as such. The Government has no claim to these lands.

2. The bill is unfair and unjust to the owners of these lands and if this bill is passed it would cause the owners of these lands to go to great expense to defend the title to their land which they rightfully own and would cost the Government a substantial sum to go into court (which sum would come out of the taxpayers' pocket).

3. The bill is unconstitutional because it deprives the owners of these lands of their constitutional rights under the Constitution of the United States of America and the constitution of the State of California, by taking private property without any judicial proceedings and upon a payment of a sum not based upon the market value of the land but at an arbitrary figure of $1.25 per acre as suggested by the proposed bill.

4. The bill is unnecessary and, therefore, a waste of the taxpayers' money as long as the present laws passed in 1922 and 1930 exist and will straighten the situation where these lands were used as base lands under the Federal Exchange Act, and all that would be necessary is for Congress to see that the law now in existence is carried out by the Bureau of Land Management and have them execute the necessary quitclaim deeds to the former owners of the base lands where the lieu selections were not completed.

5. The bill is outright confiscation when it forces the owners of these lands to accept $1.25 per acre, and is certainly unfair to us and the other owners of these lands to have to spend many thousands of dollars fighting the United States of America in order to receive just compensation for our lands, even though Congressman Sisk admits that they are worth many hundreds of thousands of dollars.

It is our opinion and the opinion of our legal staff and of the title companies that we are the legal owners of these lands and that the deed given to the United States of America by the grantor when these lands were used as base lands under the Federal Exchange Act passed no title whatsoever to the United States of America when the lieu selection was not completed.

Therefore, the Ranch Development Corp. will continue to demand that the Bureau of Land Management abide by the present law now in effect and issue the necessary quitclaim deeds to remove the clouds from our titles as provided by law in the act of April 20, 1930, and we will use whatever legal methods are deemed advisable to protect our rights and our lands.

Our corporation is hoping that the members of this committee will not propose this bill to the full committee.

I wish to thank you personally and on behalf of the Ranch Development Corp. for your courtesy in listening to our side of the issue.

Mrs. PFOST. Thank you, Mr. Ely.

Mr. Ely, on the first page of your statement you mentioned that your corporation has purchased many of these lands.

Mr. ELY. Yes.

Mrs. PFOST. You say "many." What percentage of the lands did you acquire by purchase?

Mr. ELY. We purchased all the lands, Madam Chairman. Every piece of land we have we have a deed to it, and in most instances a deed back from the original people who put it in lieu.

I have before me here a deed from C. W. Clarke which deeded back to our corporation all of these lands. This deed is C. W. Clarke & Co. to Ranch Development Corp., and it is dated May 20, 1959.

This is a group of lands in Tulare County. C. W. Clarke was the original owner of these lands. He deeded these lands to the United States. C. W. Clarke was entitled to a lieu selection of these lands. Therefore, if our corporation bought these lands, then we are entitled to our quitclaim deed back from the U.S. Government under the law.

Mrs. PFOST. How many separate pieces of land was Mr. Clarke entitled to in the first place? Did he acquire these lands by purchase from individuals? Or how did he get title to so many pieces of land?

Mr. ELY. To set the record straight here, in other testimony I heard here that these lands were homestead lands, and so forth. The majority of the lands that the Ranch Development Corp. owns were not homestead lands. These lands were sold by the State of California

to anybody who wanted to come and buy them, and the patents were issued to these lands. If the individuals wanted to take the opportunity at that time under the Forest Exchange Act to exchange them with the Government, they could do so, or otherwise could have sold them to whomever they pleased.

Mrs. PFOST. The Chair recognizes the gentleman from Oregon, Mr. Ullman.

Mr. ULLMAN. Mr. Ely, first, what percentage of your corporation activities have been involved in trying to process the ownership of these reconveyed lands?

Mr. ELY. I don't quite understand your question.

Mr. ULLMAN. Was your corporation set up for this purpose?

Mr. ELY. No; our corporation has been in existence many years. We are not a new corporation. We are an old land company and cattle company. My people came out here in 1841.

Mr. ULLMAN. You are one of the owners, I assume?

Mr. ELY. No, I am not. I work for this company.

Mr. ULLMAN. You work for the company?

Mr. ELY. Yes, sir.

Mr. ULLMAN. And in the last 2 years you would not know what percentage of the activities of the company have been devoted to this particular purpose?

Mr. ELY. Our company is a large company. We have a legal staff that does a lot of work on our titles. We hire various abstract companies and title companies. We have a cataloging department, aerial mapping department, and so forth. We have a catalog we send out to people of lands, and we are rated with the world's largest land companies.

Mr. ULLMAN. Is this a closed corporation?

Mr. ELY. I am not at liberty to say that.

Mr. ULLMAN. We do not have the names of the owners available to us, then?

Mr. ELY. I am an officer of the corporation, which I have stated here.

Mr. ULLMAN. We do not have available to us the names of the other members of the corporation?

Mr. ELY. No.

Mr. ULLMAN. You say you have purchased these lands. Now, do you have any average or any testimony at all you could give us as to the amount you are paying for these claims?

Mr. ELY. These lands, as I testified here, ran us in this one particular 160 acres, as an average, ran us $27 an acre, sir.

Mr. ULLMAN. This was for processing the title claims?

Mr. ELY. And so forth. We pay on the average of $10, for some $20, according to where the lands are located.

Mr. ULLMAN. You paid out to the owners?

Mr. ELY. Yes, the owners.

Mr. ULLMAN. To the claimants?

Mr. ELY. Yes, sir, or to their predecessors or whomever we buy the lands from.

Mr. ULLMAN. How much acreage is actually involved at the present time in your company's applications?

Mr. ELY. I would say close to, I think we got close to 18,000 acres involved at the present time in California.

Mr. ULLMAN. I believe it has been testified to, but how much have you already secured title to?

Mr. ELY. I would not know exactly. Not very much as far as the Bureau of Land Management is concerned because they have been reluctant to give us the deeds back even though our abstract and title companies show us complete owners of the land. They keep telling us they will get to it when they get around to it.

Mr. ULLMAN. You do have a number of deeds you have secured?

Mr. ELY. Yes, I have a number of deeds back.

Mr. ULLMAN. How many parcels?

Mr. ELY. Five or six parcels. I don't remember the exact number at the present time.

Mr. ULLMAN. And how much acreage is involved?

Mr. ELY. I would say maybe 600 acres at the most.

Mr. ULLMAN. That is all you have received title to, to date?

Mr. ELY. That is right.

Mr. ULLMAN. In the forests or the parks?

Mr. ELY. Most of the lands were in the forests.

Mr. ULLMAN. Do you have any in the national parks?

Mr. ELY. I wouldn't know without looking at the complete record whether we do or not. I assume we do have some in there.

Mrs. PFOST. Will the gentleman yield?

Mr. ULLMAN. Yes.

Mrs. PFOST. How many pending parcels do you have that you are requesting deeds to?

Mr. ELY. It is very hard for me to say because the files on these things are so thick and there are so many pieces. There may have been a 40-acre piece and given a ranch site number. We ran a complete chain of title on all the lands.

Mrs. PFOST. Just approximately.

Mr. ELY. I wouldn't know how to answer that.

Mrs. PFOST. Five or fifty?

Mr. ELY. There would actually be over 50. If you had a section and cut it up into 40-acre parcels, you would immediately have more land. So whatever the application at the time the individual deeded it to the United States, whatever it was, 40 acres or 80 acres, that is what we make an application for.

Mrs. PFOST. How many acres are involved in these pending applications?

Mr. ELY. I stated before approximately 18,000 acres.

Mrs. PFOST. Thank you.

Mr. ULLMAN. I think these facts are very important to have before the committee, and whether the witness can supply them or the Bureau of Land Management, we certainly should have a full and complete set of facts before we go into consideration of the bill.

Mrs. PFOST. The gentleman is absolutely correct.

The Chair recognizes the gentleman from California, Mr. Sisk.

Mr. SISK. Mr. Ely, as I understand, you are here on behalf of the Ranch Development Corp.; is that right?

Mr. ELY. Yes, sir.

Mr. SISK. You are representing them?

Mr. ELY. Yes, sir.

Mr. SISK. When was the Ranch Development Corp. incorporated?

Mr. ELY. I don't know the exact date, but it was in 1953, qualified in the State of California, I think, in 1953.

Mr. SISK. Is 1953 the year the Ranch Development Corp. actually started doing business?

Mr. ELY. No. We operated under the Ranch Development Co. for many years before that in different States. We were the successors of the Pacific Cattle Co. In other words, we bought the Pacific Cattle Co., who sold out to the Ranch Development Co.

Mr. SISK. You were talking about being an old company.

Mr. ELY. It is. It goes back 25 years. But the company was more or less in the cattle business, and the land business combination. In the last 15 years we have been solely in the land business.

Mr. SISK. Who is the president of the Ranch Development Corp.?

Mr. ELY. Robert H. Ritter is the president of it.

Mr. SISK. Could you furnish this committee a copy of the incorporation papers of this corporation?

Mr. ELY. I think so.

Mr. SISK. Can you or can you not?

Mr. ELY. I have to take it up with the board of directors of the corporation and see if they want to do it or not.

Mr. SISK. In other words, it might be necessary to subpena that if we want it; is that it?

Mr. ELY. I couldn't answer that, Congressman, at the present time.

Mr. SISK. How long have you been associated with the Ranch Development Corp., Mr. Ely?

Mr. ELY. Since 1953. I was with the Ranch Development Co. before that and I was with the Pacific Cattle Co. before that, which is all the same company.

Mr. SISK. Let me ask you this, Mr. Ely: Are you associated with any other corporations?

Mr. ELY. No; I would say I am not. I may be an officer of a couple of different corporations that I was on their board of directors, or something, but nothing to do as far as buying and selling land or anything like that.

Mr. SISK. You are not a member, or an officer or director of any other corporation except the Ranch Development Corp.?

Mr. ELY. As I say, I may have been a director and officer of other corporations, but not as far as dealing in these lands, which I don't think enters into it here.

Mr. SISK. I was referring to specifically right now. I realize you may have held some office somewhere. I am interested in the present situation.

Mr. ELY. At the present time, as far as a land company, I am an officer—I am an officer, as you know, Congressman, and happen to be president of the Desert Land Homesteaders' Association who have been fighting for the homesteaders and the desert land entrymen of this State.

Mr. SISK. By the way, I want to ask you about some of these lands you have requested to be placed on the tax rolls in various counties.

It is my understanding you state here you have actually purchased and do hold title to all lands that you have requested to be placed on the tax rolls now, Mr. Ely.

Mr. ELY. We have purchased all of these lands, and we are waiting for the Bureau of Land Management to send us back whether or not

the lieu selections have been taken on them according to their records in Washington, D.C. The title companies here in California have examined the titles, and the records of the Bureau of Land Management show here that the lieu selections were not completed. So therefore we cannot go any further until we get the reply back there. But they have been very reluctant to give it to us. Even when we complete abstracts, which I have copies of here, made by the TTC, the Tulare Title Co.—I send them abstracts and show them everything from all the way back, and they have still been very reluctant to answer our letters.

Mr. SISK. What about Madera County? Do you have any lands on the tax rolls of Madera?

Mr. ELY. Yes; we have—no, we have none in there because the tax assessor would not assess us even though the law provided for it.

Mr. SISK. You mean you own land there and they will not put it on the tax rolls in Madera County?

Mr. ELY. That is right. That is absolutely true. And we, in turn, have asked to be put on the tax rolls of Madera County. We went up there to talk to the assessor, Mr. Schwartz, and he said he couldn't do it, the district attorney had ordered him not to do it, and even after the Attorney General's opinion, Mr. Moss said we should be put on the tax rolls, they have absolutely refused to abide by the law to do it, and as of this date we are not on the tax roll.

Mr. SISK. What reason did they give you for not putting you on the tax roll?

Mr. ELY. To save the committee's time, I suggest you read this piece in the paper on land rulings, that we did fraudulent things and didn't buy these lands, and so forth.

Mr. Sisk, I say Mr. Jendren has slandered the reputation of our corporation, me personally, and never took the time and effort to look into the records to find out how we got these lands.

Mr. SISK. I might say you indicated in here to some extent I may have been a little critical of your organization, and I know you accused Mr. Hochmuth of that, and now the local district attorney.

Mr. ELY. Would you like to read the article?

Mr. SISK. I would like to say apparently you think the chairman has indicted your company a little bit.

Mr. ELY. Congressman, I just mentioned the facts. It was printed in the paper. If you print these facts in the paper and the public reads them, I am only telling you what the facts in the paper were. There is no personal thing against you or the chairman here. If you put it in the paper what you say, I am only quoting what you say in the paper.

Mr. SISK. I appreciate that and do not hold it against you.

Mr. ELY. That is right.

Mr. SISK. In this business we expect to be criticized from time to time, Mr. Ely, and that is the reason I brought some of this out.

Actually there is grave question about a lot of lands you requested to be put on the tax roll, is there not?

Mr. ELY. Not as far as we are concerned. If there is a place to decide whether or not we have clear title to the lands, it is in the courts, not in back pool halls. The district attorney has slandered us. If you want to look at the paper, I have it with me. "Vast Land

Grab by Ranch Development Corp.," and so on. These are accusations which he can't back up.

I mean, in the first place, if our company did do all of these things we would be in jail. We wouldn't be free. After all, he has made these accusations and rather than go into every detail of them and take the committee's time I would be very happy to leave the file with you where he has made these.

Mr. SISK. Has it ever been called to your attention, Mr. Ely, that some of the lands which you requested to be put on the tax rolls out there are actually held by private individuals who actually thought they had title to them for a great many years? Are you familiar with any of those problems?

Mr. ELY. Actually what we have done in many, many cases, after we have discovered that the lieu selections were completed, as I have stated before, we have deeded these lands back. But we cannot deed any lands back until the Bureau of Land Management will cooperate with us and tell us one way or the other in Washington. The records here show the lieu selections were not completed. If they would just cooperate with us, we would be very happy to deed back any parcel of land that our corporation has no claim to. We are not interested in taking anybody's property or slandering their title in any way.

Mrs. PFOST. Will the gentleman yield for a quick question?

Mr. SISK. Yes, I will be glad to yield.

Mrs. PFOST. Regarding these requests you have made to be placed on the tax rolls, are there any pieces of property on which private individuals are now being assessed on which you are requesting your name be placed instead of the present assessee?

Mr. ELY. No, I am not requesting that. I am requesting our name be placed with the assessed owner, the one assessed. If the assessed owner is the United States of America, I am requesting our name be put with the United States of America according to the law. Under 610 of the Revenue Code it provides for this, and this is all we are asking them to do, to abide by the present law. We are not trying to take anybody's property.

Mrs. PFOST. What percentage of the property you are requesting to be placed on the tax rolls in Madera County, Mr. Ely, are at the present time assessed under private ownership?

Mr. ELY. I would say maybe two or three pieces. The rest is all assessed to the United States of America. A very small amount.

Mrs. PFOST. Thank you.

Mr. SISK. I have a number of questions I would like to ask Mr. Ely, but I would like to yield to our counsel. I understand he has some questions. I would like to reserve the balance of my time.

Mr. WITMER. I believe Mr. Landstrom has some questions.

Mr. LANDSTROM. Mr. Ely, a moment ago you made a reference to section 610. For purposes of clarity do you mean article 6, section 610, of the property tax laws of California?

Mr. ELY. I don't know exactly the number but it is right in Attorney General Moss' decision here where he decided we have the right to be put on the tax rolls.

Mr. LANDSTROM. Thank you.

Madam Chairman, I have a copy here of that article and section which I would like to insert in the record at this point.

Mrs. Pfost. Without objection, the insertion will be made. Is there objection?

Hearing none, it is so ordered.

(The section follows:)

Article 6, Section 610, Property Tax Laws of the State of California, Annotated, 1957

610. Other claimants of property: Land once described on the roll need not be described a second time, but any person, claiming and desiring to be assessed for it, may have his name inserted with that of the assessee.

Mr. Landstrom. Mr. Ely, I believe you made mention a moment ago of a deed which your corporation holds from C. W. Clarke or C. W. Clarke Co., dated in 1959?

Mr. Ely. Yes, sir.

Mr. Landstrom. Is that the primary base for the claim of the corporation to the title to this property we are speaking about?

Mr. Ely. We had owned this property before that. We had bought this property, and C. W. Clarke knew we owned this property, and the title companies said, "Well, if you can get a deed back from C. W. Clarke it will take away any question to your chain of title." Mr. Clarke gave us the deed back to these properties.

Mr. Landstrom. In other words, it is your impression that the deed from C. W. Clarke or C. W. Clarke Co. was essential to the title you claim to this property?

Mr. Ely. No; I don't say that. When I want a chain of title on a piece of property I try to get every document that would be necessary to defend our title. Actually these properties were purchased by our corporation and we got a deed for them and the chain of title from that date on was vested in our name.

Mr. Landstrom. From whom did you purchase them if not from C. W. Clarke or C. W. Clarke Co.?

Mr. Ely. We purchased a lot of these properties, not all of them, from Mr. William Morris Taylor.

Mr. Landstrom Referring back to the deed from C. W. Clarke in 1959, is C. W. Clarke or the Clarke Co. the party or parties who originally quitclaimed back or relinquished back to the United States these properties prior to March 3, 1905?

Mr. Ely. Yes, sir.

Mr. Landstrom. Under the 1897 act?

Mr. Ely. Yes, sir.

Mr. Landstrom. What actions, if any, were taken by C. W. Clarke and the Clarke Co. from 1905 to 1959, a period of 54 years, to obtain either a lieu selection for these properties or have them quitclaimed back to them?

Mr. Ely. As far as C. W. Clarke was concerned, he doesn't own them any more. He sold them. The title had passed from them. So why should they ask for a deed back from the Government?

Mr. Landstrom. Mr. Ely, is it true that prior to March 3, 1905, C. W. Clarke or the Clarke Co. had issued an instrument conveying all of their titles to these properties to the United States under the 1897 act?

Mr. ELY. Not all of their properties. Some of their properties they conveyed to the U.S. Government under the lieu selection act of 1897, and they waited, as I stated in my statement here, for many years to get these lieu selections, and did not receive them.

Mr. LANDSTROM. But they had on some of these tracts to which you have reference conveyed title back to the United States or relinquished their title under the 1897 act?

Mr. ELY. They conveyed title to them under the Lieu Selection Act, yes; but they never got anything in return.

Mr. LANDSTROM. Have you ever had occasion to read a decision by the Department of the Interior, Secretary Hitchcock, dated April 26, 1904, in the case of John K. McCornack? Do you have any knowledge of that decision?

Mr. ELY. No; I do not know. I haven't read that. There are many cases I haven't read.

Mr. LANDSTROM. Madam Chairman, I have in my hand here a photostatic copy of the decision appearing at 32 L.D. 578, which has reference among other matters to a case involving C. W. Clarke and refers to an attempt which had been made by John K. McCornack, who was an assignee from other interests, to execute a lieu selection under the act of June 4, 1897, based on an assignment made to Mr. McCornack.

In this decision, which I will not read, the headnote states:

> Under the exchange provisions of the act of June 4, 1897, the selection of lands in lieu of other lands within a forest reserve relinquished to the United States with a view to such selection, can only be made by or in behalf of the owner of the lands relinquished.

Based on that principle, Secretary Hitchcock affirmed the rejection by the General Land Office of this application by Mr. McCornack to exercise rights which had originally been held by Mr. Clarke.

Now, Mr. Ely, in view of that type of ruling, what credence do you think should be given to the deed which your corporation holds from C. W. Clarke dated 1959?

Mr. ELY. That is a different situation altogether. You are not talking about the same thing. In that particular case there the man was trying to get a lieu selection. We are not trying to get a lieu selection. All we want the Bureau of Land Management to do is abide by the law and give us the deed back to the property. That man was trying to get a lieu selection. We are not trying to get that.

That particular case you are talking about is where Clarke had transferred to somebody else and they tried to get it under the Lieu Selection Act. The Lieu Selection Act was appealed. We are not trying to come under that. I am trying to come under exactly my perfect chain of title in this property and all we are interested in is a deed back from the United States.

Mr. LANDSTROM. Madam Chairman, I would like to insert in the record at this point the decision that I have mentioned.

Mrs. PROST. Without objection, the decision will be inserted at this point in the record.

Is there objection?

Hearing none, it is so ordered.

(The decision follows:)

[From 32 L.D. 578, decisions relating to the public lands]

FOREST RESERVE—LIEU SELECTION—ACT OF JUNE 4, 1897

JOHN K. MCCORNACK

Under the exchange provisions of the act of June 4, 1897, the selection of lands in lieu of other lands within a forest reserve relinquished to the United States with a view to such selection, can only be made by or in behalf of the owner of the lands relinquished

Secretary Hitchcock to the Commissioner of the General Land Office (F. L. C.)
April 26, 1904 (W. C. P.)

John K. McCornack appealed from your office decision of October 12, 1903, rejecting his application Nos. 5288, 5289, 5290, and 5291 under act of June 4, 1897 (30 Stat. 36), to select the E. ½ SW. ¼, Sec. 25, the SW. ¼ SW. ¼, Sec. 26, and the NW. ¼ NE. ¼, Sec. 35, T. 41 N., R. 4 W., B. M., Lewiston, Idaho, land district, in lieu of lots 1, 8 and 9, Sec. 19, T. 5 N., R. 28 W., in the Santa Inez forest reserve, California, relinquished to the United States by Ferdinand S. Phillips, and the SE. ¼ SE. ¼, Sec. 29, T. 1 N., R. 4 E., in the Black Hills forest reserve, South Dakota, relinquished to the United States by William T. Todd.

One general application was filed, dated May 17, 1902, executed by McCornack, describing himself as "the owner of the scrip right" of the relinquished land, accompanied by a non-mineral and non-occupancy affidavit. This application need not be taken into consideration, as it is evident that the applicant elected to proceed under four other applications, each describing one tract of the land applied for and designating one tract of the relinquished land as base. Each of these applications bears date of May 17, 1902, was executed and presented by McCornack, who describes himself as "the assignee of owner" of the relinquished tract, and is accompanied by a non-mineral and non-occupancy affidavit. To each application is attached an affidavit of McCornack averring that the application is made by him "as the assignee of the original scrippee"; that he "purchased said right in good faith for valuable consideration from the agent of legal holder thereof"; that "he has never heretofore and to the best of his knowledge and belief his grantor has never heretofore made any entry by virtue of the scrip offered herewith;" and that "he is the present owner and legal beneficiary of the said right."

With each application are two instruments; one entitled "power of attorney to select," and the other "power of attorney to sell," those in numbers 5288, 5289 and 5291, being executed by Phillips and wife, and those in 5290 by Todd.

No agent, attorney, donee or grantee is named in any of these instruments, the space for that purpose being left blank. In those instruments executed by Phillips and wife, purporting to confer authority to select, the granting clause is as follows: "Now, therefore, we Ferdinand S. Phillips and Anna J. Phillips, his wife, of Los Angeles, California, have made, constituted, and appointed and by these presents do hereby make, constitute, and appoint . . . . our true and lawful attorney for us and in our names, places and stead to enter into and upon and take possession of each and every tract of public land opened for settlement in any State or Territory of the United States, of equal acreage or any part thereof, in lieu of the following described tract of land: . . ." Each of these instruments contains a clause as follows: "For value received, the receipt whereof is hereby acknowledged, this power of attorney is hereby made and declared to be irrevocable by us or otherwise." The other instruments, after reciting surrender of the base lands, provides: "Now, therefore, we Ferdinand S. Phillips and Anna J. Phillips, his wife, have made, constituted, and appointed and by these presents do make, constitute, and appoint . . . . of . . . . county, State of . . . . our true and lawful attorney for us and in our names, places and stead to enter into and take possession of each and every tract of public land in any State or Territory of the United States that have been or may hereafter be selected by us in lieu of the land surrendered to the United States, as aforesaid, or any portion thereof." This is followed by authority to sell and convey the land and by a clause making the power of attorney for value received, irrevocable.

The power to select executed by Todd makes an unnamed person his agent and attorney "to locate and select" the land to which he is entitled under the provisions of the act of June 4, 1897, in lieu of the land relinquished, describing it.

In this instrument there is no clause stating it is for value received and irrevocable. The power to sell executed by Todd is in the same terms as those by Phillips.

Your office rejected the several applications, saying:

"The right to make selection under the provisions of said act of June 4, 1897, is conferred upon the owner of land within the limits of a forest reserve and is not assignable; therefore, said McCornack is not entitled to make such selection in his own right by reason of any assignment to him by Phillips and Todd."

Upon appeal errors are assigned as follows:

"1. The Honorable Commissioner erred in rejecting the application of the appellant to make lieu selections as shown by the record at a time when the lands attempted to be taken were otherwise unappropriated.

"2. The Honorable Commissioner erred in holding and deciding that the appellant could not make lieu selections in his own name in as much as he had paid for the rights which this scrip confers.

"3. If assignment No. 2 is not well taken then the Honorable Commissioner erred in not giving to the appellant J. K. McCornack a permit to obtain from the various persons named, duly executed powers of attorney authorizing the location of the scrip in their names respectively."

The provision of law under which these applications are presented is:

"That in cases in which a tract covered by an unperfected *bona fide* claim or by a patent is included within the limits of a public forest reservation, the settler or owner thereof may, if he desires to do so, relinquish the tract to the government, and may select in lieu thereof a tract of vacant land open to settlement not exceeding in area the tract covered by his claim or patent; and no charge shall be made in such cases for making the entry of record or issuing the patent to cover the tract selected: *Provided further*, That in cases of unperfected claims the requirements of the laws respecting settlement, residence, improvements, and so forth, are complied with on the new claims, credit being allowed for the time spent on the relinquished claims."

This law does not provide for the issuance of scrip in any form or for the certification of a right of selection. To speak of a "scrip right" under said act is inaccurate and tends to confuse and mislead.

Where a tract within a forest reservation is covered by a patent or its equivalent, the law provides for an exchange of lands between the two owners, the United States and the individual, and nothing in it can be construed as indicating that it contemplated any other or different character of transaction. Holding this view, the Department has from the beginning insisted that a relinquishment and a selection covering all the relinquished land shall be presented together and the matter disposed of as a single transaction. In F. A. Hyde *et al.*, on review (28 L. D., 284, 286), it was said:

"The officers of the land department are not authorized to accept, consider or pass upon a relinquishment of the tract within the limits of a forest reservation, except in connection with a proffered or tendered selection of other lands in lieu thereof."

In William S. Tevis (29 L. D., 575), Tevis filed a relinquishment and abstract of title with a view to the selection thereafter of land of equal area. Your office refused to accept such relinquishment and Tevis appealed, contending it was not necessary that an application to select lieu land should be filed with the relinquishment of the land used as a basis for selection, but that such application may be made at any time thereafter. This Department quoted a portion of the decision in F. A. Hyde *et al.*, *supra*, as directly in point, and continuing said:

"Paragraphs 15 and 16 of the rules and regulations issued June 30, 1897, under said act (24 L. D., 589, 592), clearly require that in all cases of exchange of lands under said act, whether the land relinquished be "a tract covered by an unperfected *bona fide* claim or by a patent," an application to select lieu lands must accompany the relinquishment of the lands included within the limits of a forest reserve."

Further along in said decision (p. 577), is the following:

"The Department can not escape the conviction, upon careful consideration, that the act contemplates and that good administration and the best interests of all concerned in the exchange of lands so provided for, require that the steps necessary to complete such exchange, when once initiated, be concluded as promptly as possible, and that as contributory to that end an application to select lieu lands should accompany the papers filed to effect a relinquishment to the United States of the land upon which the lieu selection is based."

In the instructions of March 6, 1900 (29 L. D., 578), the position theretofore taken was adhered to. Paragraph 19 of instructions of July 7, 1902 (31 L. D., 372), is as follows:

"A selection based upon land covered by a patent or by a patent certificate must be made by the owner of the land relinquished or by a duly authorized agent or attorney-in-fact; and when made by an agent or attorney-in-fact, proof of authority must be furnished."

In William G. Gosslin (32 L. D., 100, 102), it was said:

"No right to make a selection under the act of 1897 can arise until legal title actually exists in the person assuming to convey it to the United States and claiming right to make selection."

In C. W. Clarke (32 L. D., 26, 27), it is said that "a lieu selection under the act of June 4, 1897, is essentially an exchange," and in Maybury *v.* Hazletine (ib., 41, 42), that "the act of June 4, 1897, proposes an exchange with 'the owner' of lands in a forest reserve." The same idea, that said act contemplates a transaction between the individual, the owner of the lands relinquished, and the United States, the owner of the lands selected, is involved and expressed in numerous other decisions of the Department.

The foregong citations demonstrate that the Department has proceeded from the very first upon the theory that the law in question contemplates that the selection shall be made by or in behalf of the owner of the lands relinquished. This theory is wrong if the hypothesis, that the right of selection is assignable, upon which the appeal herein is based, is right. If the contention of appellant is to be sustained, the declarations of the Department hereinbefore quoted must each and all be held erroneous. It is not believed that there is any good reason for such a course.

The Department has, however, directly and fully considered and decided this question of the assignablity of the right of selection arising under said act of June 4, 1897. In F. A. Hyde, on review (28 L. D., 284), it was contended that there was error in the original decision (27 L. D., 472) in holding that unsurveyed land was not subject to selection under said act of 1897. After stating this contention, the Department said (p. 286):

"Before considering this contention of the motion, the purported assignment by Belden to Hyde should receive some attention. The provision of the statute under which this case arises clearly contemplates an exchange of lands. The parties to the exchange are the United States, on the one hand, and on the other a holder of "an unperfected *bona fide* claim" within the limits of a forest reservation or an owner "by patent" of land so situated. A case is not properly presented for the favorable action of the land department under said provision until there is filed a relinquishment of the tract covered by the unperfected *bona fide* claim or patent and a selection by the claimant or owner of the land in lieu thereof. The officers of the land department are not authorized to accept, consider or pass upon a relinquishment of the tract within the limits of a forest reservation except in connection with a proffered or tendered selection of other lands in lieu thereof. Delivery and acceptance of the relinquishment are necessary to give it any effect, and until this is done there is no right to lieu land and hence no right to assign. Hyde had no title to the tract described by Belden's deed, had nothing to relinquish, and had no right of selection. His application cannot therefore be recognized. Considered as his application alone, it should have been rejected. Inasmuch, however, as both Hyde and Belden now aver that such application was made by the direction of the latter and for his benefit, and since, furthermore, the relinquishment and selection have been presented by Belden himself, as owner of the tract, the case will be considered as if upon the application of Belden from the beginning."

In conclusion it was held:

"Where an exchange of land is sought under the act of June 4, 1897, *supra*, the relinquishment and selection can be made only by the claimant or owner of the land within the limits of the forest reservation."

This ruling is fully sustained by the language of the law, which is that "the owner" may relinquish and "may select," and by every consideration of good administration. If it had been intended to create a floating right different language expressing such intention would have been used. That Congress might have so provided cannot be doubted, but that it intended to do so is clearly negated by the language used. The contention of appellant in this particular cannot be sustained. Because of this conclusion it is not necessary to consider the form of the instruments under which appellant claims or to determine their sufficiency to constitute him an assignee of the claimed right.

It is insisted that if the application to select at assignee be not recognized, then the appellant should be given time and permission "to obtain from the various persons named duly executed powers of attorney authorizing the location of the scrip in their names respectively." The presentation of applications in the names of the respective owners of the relinquished land could not be held to relate back and be effective from the date of presentation of McCornack's unauthorized and invalid application. Such new application would take effect only from the date of its presentation accompanied by the required proofs, especially as to the character and condition at that time of the lands applied for. Even if it were held that the applications now before the Department might be perfected by substituting the names of the respective owners of the relinquished tracts for that of McCornack, the proofs would have to be brought down to the date such substitution was made and rights under the substituted applications would be determined under the facts shown to exist at that time. The decisions of the Department to this effect are too numerous and the rule is too well established to require citation of any cases so holding.

In some cases applicants have been allowed time to make corrections in the papers pertaining to their applications and to supply admissions, but these have been in respect of formal or unessential matters and the privilege has been given as a matter of grace and not as a matter of right. Here there is no application capable of being perfected. Neither Phillips nor Todd has a foundation application upon which to base a request to be allowed to cure defects or supply omissions. Any proceedings in their behalf must begin with the initial act of presenting a formal application and their rights must be determined as of the date when such application may be presented, accompanied by the required proofs.

If applications be hereafter presented in the names of the owners of the relinquished tracts they will receive due consideration and be disposed of under the law and the decisions governing such cases.

For the reasons given the decision of your office rejecting McCornack's applications is affirmed.

Mr. LANDSTROM. Mr. Ely, I believe you testified in some cases the corporation had obtained a chain of title through this method you described, after which it found the land was owned by another owner, and that you in those instances have issued quitclaim deeds to the true owners.

Mr. ELY. Yes. We issued to the owners of record.

Mr. LANDSTROM. To the owners of record?

Mr. ELY. According to the title company, whether it be the United States of America or who it be.

Mr. LANDSTROM. You have issued such deeds to the United States?

Mr. ELY. Yes, sir; we have. We have issued in Madera County and I think some in Ventura County, some in the north part.

Mr. LANDSTROM. Would it be possible for you to furnish to the committee a copy of one of those deeds of conveyance to the United States?

Mr. ELY. We will be very happy to.

(COMMITTEE NOTE.—The material referred to had not been received by the committee as of the date of printing.)

Mr. LANDSTROM. I believe you testified that where these deeds were made, no charge was made?

Mr. ELY. What is that?

Mr. LANDSTROM. That no charge was made on the part of the corporation for services.

Mr. ELY. No; in fact, we even recorded the deed free.

Mr. LANDSTROM. Are you acquainted with any other corporation or individuals who have found themselves in a similar situation and have found it desirable or convenient to issue such deeds to the true owners?

Mr. ELY. I don't quite understand your question.

Mr. LANDSTROM. As a matter of general information, have you known of any other parties who have found it necessary or desirable to execute such deeds to the true owners under these circumstances as in point?

Mr. ELY. I don't know of anybody; no.

Mr. LANDSTROM. The point is whether charges are generally paid for this type of service when this kind of problem arises.

Mr. ELY. We asked the title company. In fact, the title insurance and trust companies, whenever they run across a case where they see we don't have a clear title, or lieu selection was completed, the title company in many instances asked us to give them a quitclaim deed to clear one of their policy owners, and we have done so. And this record can be checked by the title insurance company in Los Angeles. We have given them many deeds.

Mr. LANDSTROM. Another question. Did you say that in some instances lands owned by the corporation through this process have been placed on tax rolls?

Mr. ELY. Yes; we have a lot of them.

Mr. LANDSTROM. Are there any placed on the tax rolls of Tulare County?

Mr. ELY. Yes.

Mr. LANDSTROM. Madera County?

Mr. ELY. No. They still took the belligerent attitude we are not the owners of these lands.

Mr. LANDSTROM. And in Tulare County has the corporation paid any back taxes?

Mr. ELY. What county?

Mr. LANDSTROM. Tulare County.

Mr. ELY. Whatever taxes were assessed against us, we paid.

Mr. LANDSTROM. Did you pay taxes going back and antedating the date of title?

Mr. ELY. From the date we got the title.

Mr. LANDSTROM. In no case have you paid back taxes going back some years?

Mr. ELY. We have never been asked to pay it. In fact, the title companies always said all we had to pay was to pay the taxes up to that point.

Mr. LANDSTROM. That is all, Madam Chairman.

Mrs. PFOST. Mr. Ely, will you please initiate a request of your board of directors for a copy of your articles of incorporation together with a list of officers of the corporation to be furnished to the committee for the record?

Mr. ELY. Yes, ma'am.

(COMMITTEE NOTE.—The material referred to had not been received by the committee as of the date of printing.)

Mrs. PFOST. Thank you very much.

Mr. ULLMAN. Madam Chairman?

Mrs. PFOST. Mr. Ullman.

Mr. ULLMAN. I would also like to have in the record and would request from Mr. Ely an individual breakdown, case by case, of every piece of land involved in this situation, with the amount of money paid for the land in each instance, to the claimant.

Mr. ELY. This will require a tremendous problem on our part and a great expense to the corporation. So I must at this point deny that to the committee.

Mr. ULLMAN. I want it to be on record that I have asked for this information. I think, as a matter of fact, this is a very important point in the determination of our case. I think it would be to the advantage of the corporation to comply with the request, so that I would ask you to take it back to your corporation and get that permission to supply us with this information. I cannot personally see it would involve a great deal of study because it should all be very clearly a matter of record.

Mr. ELY. Let's just determine at this point what you wish to have, because if you ask for a complete file on every piece of property that our corporation has purchased, it would involve a truckload of files that we would have to photostat and bring to you.

Mr. ULLMAN. Of the lands coming under the scope——

Mr. ELY. Under this act. Because in some of the instances some of the folders are this thick [indicating], with deeds and documents and old things going back to 1881; in some instances, 1899. If the committee wishes a copy of the ledger sheets which will show the legal description of these lands and the notations on them which show what progress we have made and what title insurance policies have been issued to us and which ones we are entitled to, and which ones we are waiting for the Bureau of Land Management to give us back information to tell us whether or not we are entitled to them, we would be only happy to do this.

Mr. ULLMAN. I am not concerned with that. All I want is, No. 1, a list, 1, 2, 3, of all properties for which you have applied for a deed from the Federal Government in this area; and, No. 2, how you acquired your interest in that title, and if you purchased, how much you paid for it.

Mr. ELY. We would be very happy to furnish that to you.

(COMMITTEE NOTE.—The material referred to had not been received by the committee as of the date of printing.)

Mr. ULLMAN. Thank you.

Mrs. FROST. Fine. Counsel has some questions.

Mr. WITMER. Right along that line, Mr. Ely, you have chosen to take the Clarke case, I take it, as a typical example of your operation. Is that right?

Mr. ELY. I just happened to pull a file which had a title policy on it, and so forth. That is all. We have a lot of lands of Clarke's. We have some Hyde, some that were individuals. There are many, many pieces of land we have.

Mr. WITMER. Do you regard the Clarke case as being a typical case?

Mr. ELY. I wouldn't say so, no more typical than Mr. Jones' case. I think they are all about the average case, where the man deeded the land back to the Government and got nothing in exchange for it, and we bought the land and it is our property.

Mr. WITMER. All right. I want to ask just one or two questions. You have spoken in your prepared statement of $27 as being the average cost per acre of acquiring that land.

Mr. ELY. I didn't say that. I said that particular piece of land.

Mr. WITMER. Yes.

Mr. ELY. The 160 acres; yes.

Mr. WITMER. Of the $27, approximately what proportion was the cost to your organization and what proportion went to Mr. Clarke?

Mr. ELY. In this particular instance I wouldn't know without looking up my records. I wouldn't know exactly.

Mr. WITMER. We don't need to be exact. That will come in answer to Mr. Ullman's question.

Mr. ELY. I wouldn't be able to answer that question until I look at my records. I don't know.

Mr. WITMER. Would you say about 50 percent?

Mr. ELY. I don't know. I couldn't answer your question. I don't know how much went to Mr. Clarke or anybody else on it until I look at my records.

Mr. WITMER. Would you say you paid full fair market value for that land?

Mr. ELY. I would say at the time we bought this land we paid what it was worth in the condition it was in. Let's put it that way.

Mr. WITMER. That is to say, this was an arm's-length transaction with whomever you were dealing?

Mr. ELY. We got this land from an individual. This one particular piece of land was purchased from William Morris Taylor, the 160 acres I used in the example here. It was not purchased from C. W. Clarke, it was purchased from Mr. Taylor, and our chain of title showed perfect ownership, and the title insurance company issued a title insurance policy on this property, and the U.S. Government issued back a quitclaim deed to it.

Mr. WITMER. Mr. Taylor is not an officer of your corporation?

Mr. ELY. None whatsoever.

Mr. WITMER. He is not affiliated with it?

Mr. ELY. Not in any way.

Mr. WITMER. Do you recall or have with you your file showing how Mr. Taylor got title?

Mr. ELY. I don't have the files, but I am quite sure Mr. Taylor is here in the audience.

Mr. WITMER. I believe he is going to testify this afternoon.

Mr. ELY. He will testify how he got title.

Mr. WITMER. But to come back to my question, you paid Mr. Taylor full fair market value for that land?

Mr. ELY. Yes.

Mr. WITMER. As of that time.

Mr. ELY. At that time, according to the lands; yes.

Mr. WITMER. And that time was within the last few years?

Mr. ELY. I bought most of my land, as I testified, between 1950 and 1957. That was when I bought most of my lands.

Mr. WITMER. Let me just explain why I am asking that, and I think this will go also to Mr. Ullman's question.

A question has been raised with respect to the dollar and a quarter an acre plus interest as provided in the bill. We are interested here in getting information on all reasonable measures of value which

might affect the judgment of the committee one way or the other and a transaction such as your acquisition of this land from Taylor is pretty good evidence, assuming that it was an arm's-length transaction, of what the value of the land has been in recent years. That is the reason for our concern with that, and I think you will appreciate why it is.

Granted, there may have been slight modifications in the meantime, and granted that that does not go to the entire question involved in the bill, as you may have judged from remarks made heretofore. That is the reason. I would like the record to show the reasonableness of that request, and I am sure you and your corporation will want to cooperate along that line.

You went back and in order, I believe you said, to correct record title, got a quitclaim—was it—from Mr. Clarke, or a warranty deed?

Mr. ELY. Let me explain this one particular parcel of property. In order to have the title insured in the State of California on any piece of land, unless the title company has at their disposal a complete chain of title on that property, just within the last few years there must be a chain of title run on it, and every document has to be examined and picked up. This requires an absolute lot of time and effort by anybody trying to check a title because some of the records here in California are in very poor shape and you have got to do a lot of research, and so forth, on them. We, in turn, went back through the State records in Sacramento and got photostats of the patents they had issued, certified copies of all of those records clean up to the time we were ready to perfect our title to the title company.

The title company, in turn, had also run their own on it, and their abstract on it, and their abstract proved to be exactly like ours. We had every document, and so forth.

Mr. WITMER. What you acquired from Mr. Clarke, I would like to ask again, was a quitclaim or a warranty deed?

Mr. ELY. A quitclaim deed.

Mr. WITMER. There being on record already a deed from him to the United States?

Mr. ELY. Yes.

Mr. WITMER. And the title insurance company approved your chain of title?

Mr. ELY. Yes, sir.

Mr. WITMER. Notwithstanding that record title was not in any of these parties?

Mr. ELY. No. As far as the title insurance company is concerned, we had title. Our complete chain showed there was no break in it except the deed Clarke had given to the United States, which was nothing more than a blur to the title.

Mr. WITMER. Did you go back of Clarke and have papers from his predecessors?

Mr. ELY. We got every paper; yes.

Mr. WITMER. But his predecessor was the United States?

Mr. ELY. No; it was not. His predecessor was the State of California.

Mr. WITMER. Excuse me. You did make that clear once before. It was the State of California.

Mr. ELY. He bought the land and paid for it and got a patent.

Mr. WITMER. And notwithstanding there was at minimum a cloud on the title, namely, the recorded deed to the United States, your company paid full fair market value for that land in an arm's length transaction?

Mr. ELY. I don't think we paid what the market value was. We are not in business to lose money. The market value on that land I paid $27 an acre for, to which I testified, is worth probably $75 an acre on the market. I have appraised many thousands of acres of land for the Ranch Development Corp. over 30 years, and I would say that land varies from acre to acre in national forests or any place else.

Mr. WITMER. In other words, lands you had to pay $13.50 an acre for, discounting your own expenses, you would be willing to sell to the United States for $75 an acre?

Mr. ELY. Maybe in this one. Maybe not. Maybe we will want a hundred dollars.

Mr. WITMER. Or a hundred.

Mr. ELY. Whatever the market value is, whatever the land is selling for of that type and character and the amount of timber on it. We have particular pieces of property in Inyo National Forest and others where timber alone is worth $60,000. We are surely not going to sell the land for $20 an acre.

Mr. WITMER. Was your immediate predecessor in title, Mr. Taylor, unaware of the value of this land with the timber on?

Mr. ELY. Mr. Taylor sold me this land for so much an acre, and I in turn cleared the title on it. I put up the money to clear them. Our corporation has spent, as I testified to, thousands of dollars.

Mr. WITMER. An average in this instance, I believe you testified, of $27 an acre, including the purchase price.

Mr. ELY. This is the exact figure. This does not take any of our time. I am using this case just to show. This particular case was not a hard case, I would say. I have many cases here where we have had to go back to Michigan and back in Minnesota and everywhere else to get the people that have moved away, and so forth.

Mr. WITMER. First, that was the reason why I inquired whether you regarded this as a typical case; and, second, I believe, since you chose to take this case, whether it is typical or not, that having the $27 an acre figure, your own figure in the record, we had better stick to this case.

Mr. ELY. That is all right.

Mr. WITMER. But including your over-all expenses—and you described them as being these documents, legal services, abstract and title company services—$27 an acre was the cost to you for land which you now propose to sell back to the Government for $75 to $100 an acre or more?

Mr. ELY. I don't propose to sell it to the Government. I propose to sell it to people who want to buy from us and pay for it.

Mr. WITMER. Let us put it this way. If the Government were forced to condemn?

Mr. ELY. Then I want paid the market value of the land.

Mr. WITMER. Then Mr. Taylor, going back—and I take it he is a fairly knowledgeable man—was completely unaware of the value of the property he was selling?

Mr. ELY. Let's put it this way. Wait a minute. If you buy something for a dollar and sell it for a hundred there is no crime.

Mr. WITMER. No one is suggesting anything like that.

Mr. ELY. That is exactly what I take it. In the first place, as far as Taylor selling me this land, he could have gave it to me and it would have no bearing upon the case. He got paid what he wanted for it.

Mr. WITMER. I am afraid you misunderstand the purpose of the hearing, which is to determine whether what may or may not now be perfectly proper and lawful should continue to be perfectly proper and lawful. We are here considering a legislative matter and in considering a legislative matter we frequently consider not whether what has happened in the past was lawful, but whether it should continue to be so. Do you not agree?

Mr. ELY. I agree on that point.

Mr. WITMER. All right. And that is all. And some of the elements in this picture are what sort of occurrences are happening, what sort of prices have been paid, what sort ought to be paid in the future, and what, within the powers of Congress to enact legislation, ought or ought not to be done. That does not reflect or need not reflect unless you wish it to reflect on your activities in the past, but it does have great bearing on what this committee and what the Congress may do in the future.

Do you wish to pursue this question any more of the Clarke transaction? That is the example you brought before us and I think the picture is now reasonably clear unless you wish to add something to it.

Mr. ELY. The only thing I wish to add to it is what I said before. The amount of money I paid for the land I don't think has any bearing on it. I don't think it has any bearing on the committee. The amount of money I have got in the lands now should have a bearing on it, or what the land is worth on the market today. If I have $27 an acre net, our corporation has spent $27 an acre net and 2 years of work, I surely think we are entitled to the market value of what the land is worth, not what we paid for it. That has no bearing.

Mr. WITMER. I think you have made your position clear, and I think that is all that is called for at the moment.

Could you furnish the committee in this one instance with an abstract of title?

Mr. ELY. In one?

Mr. WITMER. This one instance.

Mr. ELY. I would be happy to, from the beginning to the top, and give you a copy of the title report.

(COMMITTEE NOTE.—The material referred to had not been received by the committee as of the date of printing.)

Mr. ULLMAN. Do you deal just with one title company?

Mr. ELY. No; I deal with various title companies. You have various companies throughout the State here. In different counties you have to have a different title company.

Mr. ULLMAN. That is all.

Mrs. PFOST. Are there further questions of Mr. Ely?

Mr. SISK. Madam Chairman, I would just like to ask one or two things in closing.

What is the principal source of income for your corporation, Mr. Ely, the principal business?

Mr. ELY. We buy and sell land, the world's largest land company.

Mr. SISK. It is purely land speculation?

Mr. ELY. I wouldn't say that. We cut land up and sell it.

Mr. SISK. I do not mean to be derogatory. You do develop it?

Mr. ELY. We subdivide land.

Mr. SISK. The point I am getting at, for example, lands you may have acquired, let us say, in Kings Canyon National Park or some other other national park, what actually did you have in mind doing with that land?

Mr. ELY. The first thing I had in mind doing with it was to give the Government an opportunity to buy it back, which I intended to do, which I said in my statement. Our corporation has always felt the Government should have the first chance to buy the lands back.

Mr. SISK. But the title which you are attacking is already in the Federal Government?

Mr. ELY. Oh, no.

Mr. SISK. Yes; it is.

Mr. ELY. That is a matter for debate. The Supreme Court——

Mr. SISK. I agree it is a matter for debate, but that is where I disagree with you, Mr. Ely. Why didn't you just leave it there? Why did you want to take the chance? In other words, you wanted to speculate on it, you wanted to take the Government for all you could get.

Mr. ELY. That is not true. We bought it from a private owner. We are taking the privately owned land——

Mr. SISK. I am sorry. We had the Forest Service this morning. They testified the title is in the Federal Government.

Mr. ELY. How come the Supreme Court, the State courts, have ruled that the title passed nothing? This is the law, and this is a case that should be looked up. If that is the case, then the Forest Department, what they have testified to here this morning is wrong. And if that is not the case then the Supreme Court is wrong.

Mr. SISK. That, of course, goes to the point our counsel, Mr. Witmer, made, that the Congress in its wisdom—I hope—will see fit to make sure by congressional act that you no longer have an opportunity to take property in this manner. That is, of course, the whole point of the bill, Mr. Ely, not directly aimed at you or any other individual, but aimed at anyone who proposes to seize—and I use the word "seize" advisedly—property deliberately with the intent of gouging the Federal Government or someone else for a profit in lands that are vital and essential in the preservation of our national resources, the national parks and the national forests. That is the whole point of the bill.

I personally feel you have made a rather poor case. On the other hand I realize that probably your activities are within the legal framework of the present law. If that is true, then we would hope to change the law.

Mr. ELY. That is what I think we are here for today, to debate whether or not you are going to change the law. Our position has been stated very clearly.

Mr. WITMER. Not whether we are, Mr. Ely, but whether we should.

Mr. ELY. That is what I hope it should be.

Mr. SISK. That is all.

Mrs. PFOST. Thank you.

(Discussion off the record.)

Mrs. PFOST. We will recess for lunch and reconvene at 1:15.

(Whereupon, at 12:15 p.m., the subcommittee recessed to reconvene at 1:15 of the same day.)

AFTERNOON SESSION

Mrs. PFOST. The Subcommittee on Public Lands will now resume its hearings on H.R. 9142.

Our first witness this afternoon will be Mr. Russell Beeson.

Is Mr. Beeson in the room?

Mr. BEESON. Yes, ma'am.

Mrs. PFOST. Mr. Beeson, will you please state your full name for the record.

STATEMENT OF RUSSELL W. BEESON, BERKELEY, CALIF.

Mr. BEESON. I am Russell W. Beeson. My home is in Berkeley, Calif. I am a former forest officer and have been working for the last year and a half for Mr. and Mrs. Buhler, who have handled some of the reclaiming of these lands for the original owners.

I have prepared a little statement here, but in general the ground has been plowed several times. I do not know that I need to go over it.

Mrs. PFOST. Without objection, Mr. Beeson's letter to Mr. Landstrom, staff consultant, will be placed in the record at this point.

Is there objection?

Hearing none, it is so ordered.

(The letter follows:)

BERKELEY, CALIF., *October 30, 1959.*

Mr. KARL S. LANDSTROM,
Consultant on Public Lands,
Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. LANDSTROM: Reference is made to your letter of October 12 and to our conference with assistant regional foresters Morse and Barnum of the Forest Service in San Francisco on October 23.

In accordance with your request, I am summarizing my ideas offered in opposition to H.R. 9142 introduced at the 1st session, 86th Congress, by Representative B. F. Sisk.

The Forest Lieu Selection Act of June 4, 1897, was a land exchange act which authorized an owner of private land within a national forest to exchange this land for an equal area of land in the unreserved public domain. Extensive use was made of this law and hundreds of thousands of acres of private land were converted to Government land. The Forest Lieu Selection Act was repealed in 1905. The repeal act, however, protected valid contracts and, in case of rejection by the United States, allowed the selection of other land. An item of interest is that there was no provision for an applicant to recover his original land if an exchange was rejected.

Further legislation which had a bearing on these uncompleted exchanges was section 6 of the act of April 28, 1930. This was a general law which authorized and directed the Secretary of the Interior to execute quitclaim deeds under a variety of circumstances where land had been conveyed but the transactions were withdrawn or rejected.

It is apparent from the foregoing that the owners or assignees of rejected applications under the Forest Lieu Selection Act have the option of the selection of an equal area of land under the 1897 act or recovery by quitclaim of the original land under the 1930 act. The argument will be made that the lands were reconveyed to the Government 60 years ago and that, in that length of time, the Government must have established some kind of title to them. It is true

that the lands were reconveyed to the Government, but it was not a reconveyance under the generally understood meaning of that term. It was a reconveyance for a purpose, an exchange of land. These exchanges were rejected by the Government. The fact that the deeds and abstracts of title to the lands have been in the hands of the Government for 60 years has no bearing on the ownership of the lands by the original owners. To repeat, it was a simple trade of lands which was never consummated.

Another argument is that the forest service has protected these lands for 60 years and must now have some kind of equity in them. From my knowledge of these lands, I would say that the pros and cons of this argument are roughly in balance. The forest service has furnished protection from fire, insects, and unlawful cutting or occupancy. However, the forest service has collected fees from small timber sales and grazing permits. In one instance, about $4,000 was collected in timber sale receipts from one 40-acre tract. The possibility of the owner being reimbursed after a lapse of 20 years is remote. Also, the public has had access to these lands for fishing and hunting.

The amount of land involved in uncompleted exchanges in California is relatively small. As nearly as can be determined, the total is roughly 10,000 acres. It appears probably that only about two-thirds of this land could be recovered by the owners. On at least one-third of this land status records, and evidence substantiating ownership are inadequate.

In view of the foregoing, I am opposed to the bill proposed by Representative Sisk. It would, in effect, permit the Government to confiscate private property. My recommendation would be to enact legislation which would permit owners to recover their land within a 5-year period and which would provide for the termination of all further activity in forest lieu lands at the end of that time.

Very truly yours,

RUSSELL W. BEESON.

Mrs. PFOST. You may proceed, Mr. Beeson.

Mr. BEESON. To start out with, the Forest Selection Act was essentially an exchange act, and it provided for the exchange of an equal area of land.

I believe Mr. Sisk is in error when he states that title to these lands is in the Government. This was essentially a common trade and there was a reconveyance to the Government but it was a conveyance for a purpose, and that purpose was for an exchange.

The lands that we are talking about are a very small percentage of the lands that were involved in forest lieu selection. There must have been something like a million acres in California that were converted to national forest lands under that law, and these are the very few claims that were rejected.

This man had placed his deed and his abstract of title in the hands of the Government and later the exchange was rejected, usually through no fault of his whatsoever. He had no way of getting his land back under the 1897 law. He could make another selection but could not reclaim his land.

The 1922 law gave him an opportunity to exchange for other lands on the national forests, to get an equal volume of timber, or to get a quitclaim deed, and the 1930 law gives him the right to a quitclaim deed.

The argument is made that the Government has been managing these lands all these years. Well, that is true, but, roughly, the argument is fairly well balanced. The public had access to these lands all of these years, and the lands that I have gone over have practically all had sales. A tract of 40 acres we are working with, the Forest Service cut it over in 1937 and collected $4,000 in receipts. The chance of the owners recovering that amount is nil.

The Buhlers have worked with about 6,000 acres of land, and what they have done was to contract with the original—with the heirs, none of the original people being alive, of course—and the contract with

them was a trust agreement to reclaim the land and dispose of the land.

The number of claims now have dwindled down, I would imagine, from 70 to 40, and the amount of land that has been reclaimed and for which quitclaim deeds have been received is 3,580 acres. And the number of cases that are still in the mill is about a thousand acres.

There has been a good deal of discussion about the area. Mr. Buhler made a very close check here in California, first, in the county offices, to locate all of the reconveyances that had been made between 1897 and 1905. Then with that list he worked in the Washington office of the Bureau of Land Management in locating the claims that had been rejected. As near as I can estimate, the area in California involved is around 10,000 acres, it is not nearly as large as some of the people here seem to believe.

It would be my judgment that there might be a third of that area that cannot be reclaimed because you cannot locate the heirs. And these claims are not transferable, you have to go to the original heirs to handle these cases. This is not script.

I think that is all.

Mrs. PFOST. Thank you very much, Mr. Beeson.

The Chair recognizes the gentleman from Oregon, Mr. Ullman.

Mr. ULLMAN. You have been helpful, but I would like to clarify something. Are you saying that in every case of conveyance to the Government there was a specific application for an exchange?

Mr. BEESON. That is right.

Mr. ULLMAN. Tying it to a specific piece of property?

Mr. BEESON. There had to be. It was an exchange of an equal area, the value had nothing to do with it.

Mr. ULLMAN. You mean there were no reconveyances to the Government unless it were tied to a specific application?

Mr. BEESON. That is right; there wouldn't be any application in the first place.

Mr. ULLMAN. You say in every instance involved there was a rejection on the part of the Government of the specific exchange?

Mr. BEESON. That is right.

Mr. ULLMAN. In the case of a rejection, was there any opportunity to take another piece of land?

Mr. BEESON. That is right. They had that right under the 1897 law.

Mr. ULLMAN. Were they specifically notified of a rejection?

Mr. BEESON. That is right, yes. It is part of the file in the Washington office.

Mr. ULLMAN. And they just did not take any action to ask for another piece of land, dropped it there?

Mr. BEESON. That is right, or a person might have died. It is hard to tell what happened.

Mr. ULLMAN. You mentioned the way your work is through a trust agreement with the heirs.

Mr. BEESON. I am not. All I am doing is doing the field work here in California. I have had nothing to do with the applications at all.

Mr. ULLMAN. But the Buhlers are taking trust agreements with the heirs?

Mr. BEESON. That is right.

Mr. ULLMAN. Is there a sample copy of an actual trust agreement you could make available to us?

Mr. BEESON. That is right.

Mr. ULLMAN. Could you do that?

Mr. BEESON. Yes.

Mr. ULLMAN. I would like you to do that. In other words, the Buhlers are not making a cash payment, it is subject to final clearing of title?

Mr. BEESON. This land is never in the name of the Buhlers. It is always in the heirs of the estate. It is a service. That is all it is.

Mr. ULLMAN. Obviously other companies are working differently by taking title in their own name.

Mr. BEESON. That is right.

Mr. ULLMAN. But from what you say that is not legal?

Mr. BEESON. I do not believe so.

Mr. ULLMAN. In your opinion, it is not legal to do that?

Mr. BEESON. That is right.

Mr. ULLMAN. And you have said that 580 acres is all the land the Buhlers have had transferred? Is that the figure?

Mr. BEESON. No, it is 3,580.

Mr. ULLMAN. With 1,000 acres pending at the present time?

Mr. BEESON. That is right.

Mr. ULLMAN. That is all.

Mrs. PFOST. The gentleman from California, Mr. Sisk.

Mr. SISK. Madam Chairman.

I am sorry I was not here to hear all of your statement, Mr. Beeson. I would like to say, Madam Chairman, on behalf of Mr. Beeson, I have corresponded with him from time to time and he has been most courteous and helpful in furnishing me quite a little bit of information. I want to express my appreciation publicly for the forthright manner in which my questions have been answered with reference to your procedures and those of the late Mr. Buhler, and, I believe, now his widow.

Mr. BEESON. That is right.

Mr. SISK. I simply have only this comment or question, Mr. Beeson: You take the position, of course, as I understand, from this letter in opposition to the bill which we have introduced in the record, which to me does not quite jibe with what I have felt to be your general position in this. I have never accused you or anyone of doing anything illegal, and I think the things you have been doing have certainly been within the legal framework of what you have been permitted to do.

The thing I have been concerned with is this: In view of our consideration to the American taxpayer, as well as keeping title to these lands in the Federal Government, in the parks and forests, and so on, I feel that this legislation is good so long as proper care is taken that no rightful equity is denied.

Based on that, do you feel it is proper, or, let us say, not in the best interest of all concerned, for the Government to proceed to close this thing up once and for all?

Mr. BEESON. No. I believe the Government should close the door but not until the people that have legitimate claims have a chance to process them.

Mr. SISK. Let me ask you, then, this question, Mr. Beeson: Under the 1922 act the Congress moved to do actually what we are attempting

to do now. They moved in that direction, let us say, and they gave the people 5 years in which to come in and make their in-lieu selection, to make such claims as they had, and so on. In view of the fact that the lands we are now talking about are lands on which apparently there were no claims made, no efforts made to wrap it up under that situation, where do you feel the Government's obligation in this matter ends? Somewhere? Don't you feel the actual equities mean the people concerned should have been in under that 5-year period? That is plenty of time, don't you think?

Mr. BEESON. It is difficult to say. I know the Forest Service made no attempt to notify people. In fact, the records of the Forest Service are not adequate to have done that sort of thing. So whether they knew about this law or not would be a question with me.

Mr. SISK. Whether or not they knew about the 1922 act?

Mr. BEESON. That is right.

Mr. SISK. I am curious to know actually what claim an individual might have as just a matter of justice where he did not have sufficient interest to have found out about a law of that kind. It seems to me they must have pretty well written it off or have no longer any interest, or at least in 5 years they would have attempted to have done something about it.

Mr. BEESON. I have no way of knowing what some of those people were thinking about. Undoubtedly some of the lands were not worth doing anything with.

Mr. SISK. Then, of course, in 1930 Congress in a way went back down the hill again, that is, in view of the fact that they did make the provision where they could, as I understand, if they could prove their claim, receive a deed to it.

Actually, even in spite of that, in 1930, which has now been 29 years ago, there has been little or nothing done until, frankly, in the last 5 or 6 years, then all of a sudden this thing has bloomed out and there have been some promiscuous claims all over the horizon.

I realize that there is a lot of enhancement of value and so on, and maybe people just recently woke up. To what do you attribute this sudden interest in the last 5 or 6 years?

Mr. BEESON. Well, it is the increase in value. As near as I can tell the lands with which we are dealing are worth about $200 an acre now on the average.

Mr. SISK. You do not disagree with me, then, that there should be something on the books that would say, "This is the end of the line"?

Mr. BEESON. That is right. In 5 years.

Mr. SISK. How long do you advocate?

Mr. BEESON. Five years.

Mr. SISK. In preference to the provision in the pending bill?

Mr. BEESON. Yes.

Mr. SISK. In other words, you actually would in general go along with the bill if it were extended to 5 years, is that right?

Mr. BEESON. No. I would not agree to paying people a dollar and a quarter an acre and the other limitations of your bill. All I think is necessary is a simple bill that would, as I said before, close the door on further activity in forest lieu selection claims in 5 years.

Mr. SISK. I appreciate your position and, of course, Mr. Beeson, you are entitled to it. I feel 50 or 60 years has been long enough. As far

as I am concerned, I just feel we should shut the door and let's be done with it.

Mr. BEESON. Here is an example: I do not like to dispute you, but if we were trading jackknives and I gave you both of my knives, then after looking them over you decided not to trade, but you kept my knife. It is as simple as that to me.

Mr. SISK. Of course, to me, Mr. Beeson, it is not quite that simple, because here are blocks of land which the Federal Government has cared for, has managed, has fought fires on and taken care of in which the individual over a period of 60 years has not been interested in, has not concerned himself with doing anything whatsoever about them. And still there are those who feel that the Government should cooperate to make it possible for someone to come in and take them, and under a situation where we know that instead of being worth a dollar and a quarter, which the land was valued at back in 1897 approximately in many instances—that in spite of the fact the Government has borne all the costs in care and management and protection, that now we permit individuals to come in and to take them and collect the $200 an acre. To me that is just an unfair imposition on the American taxpayers, and frankly that is what I hope to preclude happening.

Mr. BEESON. I do not know whether you heard my testimony earlier. There have been small sales on these lands, and they have been grazed all of these years, and grazing fees have been collected, and there has been fishing and hunting on all these lands all that time. There are arguments on the other side of the question, and the counties have been benefited to the extent of 25 percent of the receipts.

I mentioned the 40 acres the Forest Service cut over n 1937 and secured $4,000 in timber sale receipts. As I understand it, we had no possibility of getting reimbursement for a claim that is that old.

There have been some receipts to the Government all of these years.

Mr. SISK. I appreciate your position, and you are certainly entitled to it, Mr. Beeson.

I personally have the very strong feeling, and I believe this very sincerely, that in view of the 1922 act, the period of time which people had, and the fact that nothing was done, that today even a dollar and a quarter is an outright gift on the part of the Federal Government. That is my position exactly in the situation.

Thank you, Madam Chairman.

Mrs. PFOST. Mr. Witmer, do you have a question?

Mr. WITMER. Just a few, Madam Chairman.

I believe it is your view, Mr. Beeson, that the title must be restored to the original owner or his heirs, not some assignee?

Mr. BEESON. That is right.

Mr. WITMER. In whose name is the application made?

Mr. BEESON. In the name of the heirs.

Mr. WITMER. I have here a list of applications currently pending before the Bureau of Land Management for reconveyance, dated September 1959.

Madam Chairman, I would like to offer this for the record, but for the moment I will hold it.

I have listed here seven applications in the name of Mrs. Mildred B. Buhler.

Mr. BEESON. She is acting as agent for these people and the quitclaim deeds are made out to the heirs.

Mr. WITMER. So that this merely represents her as agent not as the owner?

Mr. BEESON. That is right.

Mr. WITMER. These applications total 1,720 acres, is that right?

Mr. BEESON. That is right.

Mr. WITMER. I believe it was your testimony there might be 1,000 acres pending.

Mr. BEESON. It is in the neighborhood.

Mr. WITMER. I thought it might be useful to have this precise information because one tract, for instance, runs as high as 800 acres, another one runs as high as 600 acres, and the others are somewhat smaller.

Mrs. PFOST. Without objection, the list will be made a part of the record. Is there objection?

Hearing none it is so ordered.

(The list follows:)

Reconveyance No.	Applicant	Kind of application	Estimated acres	Base lands
Los Angeles 0162334	Kenneth D. Miller	Forest lieu scrip	160	Arizona.
Los Angeles 0162335	do	do	160	Do.
Los Angeles 0164686	Frank A. Pachmayr and Nanitta G. Pachmayr.	do	162.487	Montana.
			482.487	
83310 (RS2039-2073)	Ranch Development Corp	Quitclaim deed	4,400	California.
82575	do	do	762.5	Do.
76175 (case No. 460756)	do	do	240	Do.
RS1904-1908	do	do	600	Do.
RS2457	do	do	160	Do.
78760 [1]	Mrs. Mildred B. Buhler	do	160	Do.
75365 [1]	do	do	800	Do.
73719				
75364 [1]	do	do	80	Do.
75454 [1]	do	do	40	Do.
128040-Tulare	Mr. Thomas E. McKnight	do	920	Do.
Chas. E. Swezy	Mr. William Morris	do	80	Do.
Jacob H. Cook	do	do	5,200	Do.
8397 [1]	Mrs. Mildred B. Buhler	do	40	Do.
79557 [1]	do	do	600	Do.
83044	Ranch Development Corp	do	1,080	Do.
Total			15,162.5	

[1] Mrs. Mildred B. Buhler, 4329 Ilita Blvd. SW., Albuquerque, N.Mex.; Ranch Development Corp., 8228 Sunset Blvd., Hollywood, Calif.; Kenneth D. Miller, trustee, 1025 Connecticut Ave. NW., Washington, D.C.; Mr. William M. Taylor (attorney at law), 779 West 8th Street, Claremont, Calif.; Mr. Thomas E. McKnight, Title Insurance & Trust Co., 433 South Spring St., Los Angeles, Calif.; Frank A. Pachmayr, care of Maynard B. Henry, attorney, 401 Bankers Bldg., 629 South Hill St., Los Angeles, Calif.

Mr. WITMER. In general her agreement with the heirs is for what—a percentage of the value of the land recovered?

Mr. BEESON. That is right.

Mr. WITMER. Fifty-fifty?

Mr. BEESON. Roughly.

Mr. WITMER. Fifty-fifty?

Mr. BEESON. Yes.

Mr. WITMER. Without charge for services save that?

Mr. BEESON. No. Mrs. Buhler pays all expenses of the research and for the titles and probate of the old wills, and any other expense that would be a part of a sale of the preparation of the application for a quitclaim.

Mr. WITMER. And that comes out of her 50 percent?

Mr. BEESON. Well——

Mr. WITMER. Or is that deducted first and then the split made 50–50?

Mr. BEESON. Yes; that is right. Actually the trust deed reads a third to the heir and two-thirds to Mrs. Buhler. By the time you get all of the expenses involved it is roughly a 50–50 deal so far.

Mr. WITMER. Two-thirds to Mrs. Buhler and she is bearing all the expenses, whatever they may be?

Mr. BEESON. That is right.

Mr. WITMER. And one-third to the heir is the standard form?

Mr. BEESON. Yes.

Mr. WITMER. Mr. Beeson, what years were you in the employ of the Forest Service?

Mr. BEESON. From 1918 to January 1, 1957.

Mr. WITMER. Were you aware during those years of the possibility of this sort of a problem arising?

Mr. BEESON. No. Of course, I know in a general way that there had been a large amount of activity in forest lieu selections in the early days of the Forest Service.

Mr. WITMER. From 1897 to 1905?

Mr. BEESON. That is right. But during my period in the Forest Service there was practically no activity. There was an occasional lieu selection; that was all it amounted to. I think it was about early in 1956 that the first one of these quit claims came through and I was astonished that a claim that was 60 years old could be processed. I will admit it.

Mr. WITMER. In other words, the Forest Service people, you and those with whom you were immediately associated, were unaware of the possibilities that lay in the 1922 and 1930 acts, the possibilities for damage?

Mr. BEESON. No; really not. There is a letter in the files written by the Associate Chief in 1938.

Mr. WITMER. What year?

Mr. BEESON. 1938. That gives quite a little summary of the possibilities of there being claims and warns the Forest Service that any fees that are collected are to be placed in a special allotment. And that letter was some warning, all right, but there was no activity.

Mr. WITMER. When you say "no activity," you mean no followup of that letter or no activity in making lieu selections for reclaiming the land?

Mr. BEESON. The latter is right. There wouldn't be one a year, I don't believe.

Mr. WITMER. There was likewise, I take it—or perhaps you do not know—there was no action taken on the basis of the recommendation made in that letter that somebody ought to be looking into it?

Mr. BEESON. No.

Mr. WITMER. If it had been done in 1958, we might not be where we are now.

Mr. BEESON. That is a possibility.

Mr. WITMER. I believe that is all I have.

Mrs. PFOST. Mr. Landstrom?

Mr. LANDSTROM. Mr. Beeson, are you yourself financially interested, or do you have any property interest or rights in any of these lands we are discussing?

Mr. BEESON. No.

Mr. LANDSTROM. Your capacity, then, is what—employee?

Mr. BEESON. As a consulting forester.

Mr. LANDSTROM. Referring to the status of Mrs. Buhler, you mentioned a moment ago she was in the capacity of agent for the parties concerned here; is that correct?

Mr. BEESON. I would term it that, yes.

Mr. LANDSTROM. Who actually signs the application papers submitted to the Bureau of Land Management in these cases? Does Mrs. Buhler sign them, or do the parties in interest sign them?

Mr. BEESON. I am sure I don't know. You see that is a side I have nothing to do with.

Mr. LANDSTROM. Do you know whether Mrs. Buhler is a licensed real estate broker of the State of California?

Mr. BEESON. No.

Mr. LANDSTROM. Your answer is, you do not know, or she is not?

Mr. BEESON. She is not.

Mr. LANDSTROM. She is not a licensed real estate broker. Are you aware of any revision of California law requiring individuals acting as agents in sifting and filing of land claims with the Bureau of Land Management to be licensed real estate brokers?

Mr. BEESON. I heard you mention it. That is all.

Mr. LANDSTROM. I see. That is all, Madam Chairman.

Mrs. PFOST. Are there further questions?

The gentleman from Oregon, Mr. Ullman.

Mr. ULLMAN. One question, Madam Chairman. Mr. Beeson, did you resign from the Forest Service to go to work for Mr. Buhler?

Mr. BEESON. No; I retired.

Mr. ULLMAN. You retired?

Mr. BEESON. Yes. It must have been a year and a half before I did any work for the Buhlers.

Mr. ULLMAN. Thank you.

Mrs. PFOST. Thank you very much, Mr. Beeson.

Mr. PFOST. Our next witness will be Mr. William Morris Taylor.

STATEMENT OF WILLIAM MORRIS TAYLOR, ATTORNEY AT LAW, CLAREMONT, CALIF.

Mr. TAYLOR. Madam Chairman and gentlemen of the committee, I wish to make a few statements and remarks relative to the bill introduced by Hon. B. F. Sisk, Member of Congress, as H.R. 9142.

First I wish to state that my name is William Morris Taylor, an attorney at law, from Claremont, Calif. I am appearing for several clients and also on my own behalf.

It is my considered opinion that the proposed bill is:

(*a*) Contrary to the land policy of the United States and will be generally detrimental to the progress of the country.

(*b*) Unfair to the owners of the lands involved.
(*c*) Unconstitutional.
(*d*) Unnecessary.

(*a*) It has always been the policy of the U.S. Government to encourage the distribution of public lands so that the country could be developed—1,309,591,680 acres of public land have been given away or sold to the public, but now the sponsors of this bill fear that some 40,000 acres of land that is private land and not public land will be a detriment if retained in private hands. The bill seeks to confiscate these lands and prevent their development. The effect would also be to remove them from the tax rolls.

I will not dwell on this point as I believe that various officials of the State and counties will cover this point more thoroughly and are more vitally concerned with this problem.

(*b*) Now let us analyze the lands involved in the proposed bill: Let me emphasize that all the lands are private lands, not public lands. The Government has no interests in any of the lands. It only has a cloud on the title.

The difficulty arose under the Forest Exchange Act of 1897. The Government desired to acquire all the private lands in the national forests. Therefore the Forest Exchange Act was passed allowing owners of private lands within the boundaries of the national forests to offer their lands to the Government and select other lands belonging to the Government, outside of the national forests. The procedure was to execute a deed to the private lands, called base land, to the United States, submit an abstract of title and request certain other lands in lieu thereof. This act was in effect for several years and then in 1905 was repealed.

Clients of mine, or their predecessors, offered about 40,000 acres of land in exchange for other lands. In their cases the Government either refused to accept the proposed exchanges, or failed to act until after the act was repealed, and I might say that is the general policy, I believe, of the Bureau of Land Management, being very slow and dilatory in acting in cases affecting the lands. Therefore the offer of exchange not being accepted the United States acquired no interest in the lands. The United States only had and has a cloud by reason of the recorded deeds. The courts and title companies have recognized that the United States has no interest in these lands. To remedy this situation and remove the cloud, Congress passed acts in 1922 and 1930 providing that the Government would execute quitclaim deeds to the owners.

My clients and other parties have purchased these lands from the parties who offered said lands to the United States or from their successors. They paid the purchase price, expended moneys in connection with said lands, such as title reports, surveys, taxes, improvements, etc. They have requested quitclaim deeds from the Bureau of Land Management and though in most instances they have been promised quitclaim deeds, they are still waiting for the Bureau of Land Management to act. In some cases the delays are as much as 18 years.

Yet this bill proposes to take said lands away at an arbitrary price. The bill does not offer to pay the value of the lands nor does it offer to compensate them for their expenses.

It amounts to outright confiscation.

(*c*) Constitutionality.

Both the U.S. Constitution and the constitutions of all the States provide that private property shall not be taken except for public purposes and upon the payment of just compensation and after due process in the courts.

As the committee members are well versed in constitutional law there is no need to cite the many cases upholding and explaining said constitutional provisions.

The proposed bill would take private property without any judicial proceeding, and upon a payment of a sum, not based upon the value of the land but an arbitrary figure of $1.25 per acre.

That this is private property there is no doubt, as the California, Federal, and even the U.S. Supreme Courts have so ruled in several cases.

It was squarely held by the Federal court in the case of *United States* v. *McClure*, (C.C.) 174 Fed. 510, that title to the base lands do not pass to the United States until the deed is accepted by the General Land Office—they were acting, I believe, in the place of the Bureau of Land Management at that time—and the offer may be withdrawn at any time before acceptance.

In *Roughton* v. *Knight* decided by the U.S. Supreme Court, reported in 219 U.S. 537 the Court held that the party who conveyed lands to the United States and deposited deed did not lose title to the base lands, until the lieu selection lands were granted to him.

As to the value of the land, they surely vary greatly. Even the Honorable Representative Pfost, your chairman, in her press release, relative to these hearings stated:

> Reconveyance in several instances have involved high-value timbered national forest tracts or key national park tracts, valued in hundreds of thousands of dollars.

While none of the lands of my clients have involved key national park tracts nor have they been valued in hundreds of thousands of dollars, they have been worth more than $1.25 per acre.

Therefore, $1.25 per acre is not adequate compensation.

But even to pass the law, in the face of it inevitably being held unconstitutional and invalid it would be unfair as it would mean great expense to the owners to maintain lawsuits in the courts and also great expense to the Government to defend said suits.

(*d*) My next contention is that the bill is unnecessary.

There is absolutely no necessity for this bill. If the lands are necessary to the Government, they may condemn said lands by eminent domain proceedings, paying the fair value for said lands.

I wish to make a suggestion about what could be done in this matter. I did not have it in my argument, but I heard this morning there seems to be great difficulty as to all of these records. I believe that the problem of the disposal of base lands may be settled, once and for all. I suggest that the Bureau of Land Management execute quitclaim deeds to the former owners of all base lands where the lieu selections were not approved during the period of the validity of the Forest Exchange Act, without the necessity for any application.

Before I end my statement I would like to comment on a couple of points that were raised this morning in testimony.

First, I wish to state they spoke of classes of lands here. All the interests I represent, so far as I know, were all patented lands.

Secondly, the statement was made with regard to the Bureau of Land Management that they were asked to search titles and to do a lot of work. Maybe the fault is on me. When I acquired these lands from the records of the local land office it showed that my clients owned all of this property, but I found in some cases that the U.S. land office records in Washington differed, so in each one of those cases the inquiry had to be made to the Bureau of Land Management to find out whether my clients or I or the parties I sold to were entitled to a deed.

In fact, when I sold this land to the Ranch Development Co. I made one of the provisions in the agreement that they must make application for this land and must obtain title reports to the property.

Another matter that was raised this morning was in regard to certain claims that they tried to put this property on the tax roll, filing claims that they were owners of property and putting them on the tax roll. In my agreement with the Ranch Development Co., one of the requirements that I made was that they should pay all of the back taxes that were due, they should put it on the tax roll and pay all the taxes.

So far as I know neither my clients nor the Ranch Development Co. has claimed or attempted to secure any of this property by any adverse possession. It was merely to comply with their agreement that the county should get their tax money and put it on the tax roll so that the counties could not say we were trying to avoid taxation. I did it to protect my clients and myself.

One other thing that was brought up in the testimony this morning that I wish to speak about is the remark that was made with regard to the management and care of this land, that a great service was done to this property. My only answer to that is that I don't know of any actual service. They speak about fire protection. I believe if my land had been absolutely in my name, not involving exchange land in that area, the Government always tries to protect everybody's land from fire. They don't single out any one particular land. They don't want fire sweeping through it.

The second remark was about things that they did to benefit the land. I challenge the Bureau of Land Management or the forestry department to show my clients or predecessors ever requested any services from the U.S. Government relative to the lands that my clients had an interest in or that I acquired any interest or conveyed.

Therefore, I wish to thank the members of the committee for your courtesy in listening in my humble remarks, and hope that you will not propose this bill to the full committee.

Mrs. PROST. Thank you very much, Mr. Taylor.

In your proposal to reimburse the county for taxes, what did you propose to do with regard to penalties or interest on taxes?

Mr. TAYLOR. The agreement was merely that the purchaser should pay all taxes that the company required them to pay, whether they were back taxes or just current being up to the county because I have no control over that matter.

Mrs. PROST. The Chair recognizes the gentleman from Oregon.

Mr. ULLMAN. Mr. Taylor, am I correct in assuming that all of these lands that you are handling are now under the Ranch Development Co.?

Mr. TAYLOR. Not all of them. As a matter of fact, as far as I can recollect right now, there is one parcel that Ranch Development has

nothing to do with. That is my client's and I am handling. That just occurred within the last few months. All of the rest of them were not.

There was one transaction with the Ranch Development Co. I had which took place in 1956 and 1957.

Mr. ULLMAN. I am assuming my request to the Ranch Development Co. will cover those properties you conveyed to them.

You used rather interchangeably the words "myself" and "my client." Did the title to these lands actually pass through you?

Mr. TAYLOR. Yes, they passed through me. I was trustee for them. I was to get a certain part and they were to get a certain part and they were to get a certain part and I was to do certain work so the title actually passed through me. My clients deeded the property to me and I deeded it to the Ranch Development Corp.

Mr. ULLMAN. What kind of arrangement did you have with Ranch Development Corp.? Was that an outright purchase or do you have an agreement with them for the sharing of profits?

Mr. TAYLOR. No, I have no agreement for the sharing of profits. There were three or four considerations. There was to be a cash payment made. they were to secure title reports on the property, they were to survey it, if necessary, and they were to pay up all the taxes on the property. And if they couldn't do that, if they didn't do it, I should say they were to reconvey the property back to me. If they had an interest.

If they didn't, what has actually happened in fact in several instances when we run the title—the reason I didn't do it, it is a very expensive thing. There are a great many parcels of land, and I and my clients were not in position to do that. That is why I made arrangements with a large land company that could do that.

In a few instances, it has appeared that the local records were erroneous, and in those cases, whenever I have been notified by the Ranch Development Co. or, in a few instances, by the title company directly, I have executed, and they have requested my clients, and they have executed quitclaim deeds to the owners of record to the property whoever they might be. And I also understand the Ranch Development Co. has done that. I know personally my clients and I have done that.

Mr. ULLMAN. You were actually one of the principals in the contract with the Ranch Development Corp. because of your share interest?

Mr. TAYLOR. That I made with the Ranch Development Co., the agreement?

Mr. ULLMAN. That is right.

Mr. TAYLOR. I knew—I mean I knew they were a development company but I had no dealings with them until I saw they wished to purchase land. I went to them and submitted this land to them and after they checked superficially what I had of the land we made an agreement.

Mr. ULLMAN. That is all.

Mrs. PFOST. The gentleman from California, Mr. Sisk.

Mr. SISK. I have only one question, Madam Chairman.

Mr. Taylor, as I understand, in your statement you used as one of your objections to the present bill the fact it would take a great amount of this land off the tax rolls and therefore prove to be a detri-

ment to the counties, and so on. Let me ask you how much of this land and over what period of time had been on the tax rolls prior to your acquiring title to it.

Mr. TAYLOR. I cannot answer that. I don't know. As I say, I left the checking of all the records to the Ranch Development Co. in general. I did some checking but I didn't on that point.

Mr. SISK. Do you know of any of it that was ever on the tax rolls?

Mr. TAYLOR. Yes, I do. I know of some.

Mr. SISK. Would you furnish for the record a list of such property under this lieu selection land that was on the tax rolls?

Mr. TAYLOR. I can this one piece that my clients recently acquired which belonged to the Southern Pacific Railroad Co., was on the tax rolls to them and then it was to the party they assigned to. I do not know how many years, but I know it was on the tax rolls.

Mr. SISK. You are referring to land there that has been in private ownership for a great many years?

Mr. TAYLOR. I am speaking of land that was conveyed, offered to the United States between the years 1897 and 1905.

Mr. SISK. When was the in lieu selection made?

Mr. TAYLOR. During that period. During the period that the act was in effect. I believe 1902.

Mr. SISK. In other words, they actually made an in lieu selection?

Mr. TAYLOR. They offered to exchange this land for other land and the offer was rejected, the same as I understand with nearly all of this plan.

Mr. SISK. The point I am making, Mr. Taylor, is that the records, as I understand them, for example, of Madera County—and I think the same thing is true with Tulare and many others—the majority, if not all of this land, has never been on the tax roll of any kind, never been assessed because title is held in the Federal Government, so your statement here objecting to the bill based on the fact that we are taking land from the tax rolls is, I think, if once we get the information all down, let us say, not wholly correct.

Mr. TAYLOR. Well, you see I have left a great deal up to the Ranch Development Corp. after I made the transaction and as I believe I understood Mr. Ely's testimony here, I believe it is only Madera County that has not placed it on the tax roll.

Mr. SISK. That is the point I am making—it had never been on the tax roll before, and that which Tulare County has now placed on the tax roll had never been on before. So if this bill went through, it is not denying to the tax rolls and taxpayers of this country anything they have had heretofore. That is the point I am making.

Mr. TAYLOR. They have had it on before.

Also, one of the big objections spoken of is the Bureau of Land Management refusing to issue these deeds. I have letters of requests from my clients dating back to 1941 asking it to be placed on the tax rolls.

Mr. SISK. But it has not been placed on the tax rolls.

Mr. TAYLOR. They are now but they would not place it on for many years.

Mr. SISK. The point I was making, Madam Chairman, is that these titles for all practical purposes as far as tax rolls have been in the Federal Government. Therefore no one has been paying any taxes on them. So this bill in itself will deny no public body taxes that

have heretofore been collected because there has not heretofore been any.

Mr. TAYLOR. They will be removed forever from the possibility of taxation, I should say.

Mr. SISK. That is right.

Mr. TAYLOR. Of course, I am not here representing the tax department for the counties.

Mr. SISK. That is all.

Mrs. PFOST. Mr. Landstrom.

Mr. LANDSTROM. I have one question. On page 2 of your statement you say:

> The United States of America only had and has a cloud by reason of the recorded deeds.

Could you technically state exactly the nature of this cloud? Is this not a record title?

Mr. TAYLOR. This is a cloud that it was a deed. That is right. All clouds are. It is a document affecting the title that is of record and does not actually transfer title.

Mr. LANDSTROM. That being the case, then how would you describe what you call the title of the claimant if the United States has the record title?

Mr. TAYLOR. The equitable title.

Mr. LANDSTROM. What would you say regarding the long delay or lapse of time in which this equitable title has never been asserted?

Mr. TAYLOR. I don't know as to that. In the first place, I would say it has been asserted in many of these cases for a good many years. In the first place, I should think many of these parties did not know properly how to assert their claims. It took someone with initiative and energy and persistence in dealing with the Land Bureau, like Ranch Development Corp., to be successful.

Mr. LANDSTROM. It could not have been asserted successfully for any time within five years after 1922 or we would not have these claims today.

Mr. TAYLOR. I imagine they could have asserted them then. I don't know. I mean, of course, certain parties were under disabilities at certain times, minors and things like that.

Mr. LANDSTROM. That is all.

Mrs. PFOST. Our counsel, Mr. Witmer.

Mr. WITMER. Mr. Taylor, are you familiar with the case in the Superior Court, county of Riverside, Indio No. 408 entitled Edna M. Helvey against William Morris Taylor?

Mr. TAYLOR. Yes, I am.

Mr. WITMER. Could I inquire as to the nature of that case?

Mr. TAYLOR. That was an action brought to set aside certain deeds to me and the action was dismissed.

Mr. WITMER. The action was brought by Mrs. Helvey?

Mr. TAYLOR. The action was brought by Mrs. Helvey.

Mr. WITNER. And she had executed deeds to you?

Mr. TAYLOR. She had executed deeds to me.

Mr. WITMER. Was that a contested action?

Mr. TAYLOR. No, it was not a contested action; it was dismissed.

Mr. WITMER. Why did Mrs. Helvey execute those deeds to you?

Mr. TAYLOR. Because in the first place—why she executed the deeds?

Mr. WITMER. Yes.

Mr. TAYLOR. Because I entered into an agreement to purchase and to help straighten the titles to the property.

Mr. WITMER. How many acres were involved?

Mr. TAYLOR. All the lands that are now those the Ranch Development Co. is interested in, approximately 40,000 acres.

Mr. WITMER. 40,000 acres. And what was the consideration for Mrs. Helvey's transfer to you?

Mr. TAYLOR. Legal services.

Mr. WITMER. In other words, in return for your services——

Mr. TAYLOR. I didn't receive all the property, though.

Mr. WITMER. I am just talking about what the agreement was, whether you received it or not. In return for your services for her in quieting her title, was it, you received the property?

Mr. TAYLOR. I received a deed to the property and I entered into an agreement with her.

Mr. WITMER. What did Mrs. Helvey get out of this?

Mr. TAYLOR. She got a percentage of the property and a percentage of the moneys received and that will be received from the Ranch Development Co., and an interest in the mineral rights in the property.

Mr. WITMER. Is that contract available to this committee?

Mr. TAYLOR. I don't have it here with me today.

Mr. WITMER. Could it be supplied to the committee?

Mr. TAYLOR. I would have to get the consent of my clients, since I am an attorney and was acting in a confidential capacity.

Mr. WITMER. I appreciate that. Would you be good enough to ask them?

Mr. TAYLOR. I can ask if it is satisfactory with her. I don't really see how it is material to anything before the committee on the bill as to whether it is advisable this bill be passed or not.

(COMMITTEE NOTE.—The material referred to had not been received by the committee as of the date of printing.)

Mr. WITMER. We are interested, among other things, in tracing sample chains of title. Was Mrs. Helvey the owner of the property in 1897?

Mr. TAYLOR. No, she was not.

Mr. WITMER. When did she acquire an interest in the property?

Mr. TAYLOR. To the best of my recollection in 1951, but I couldn't be certain as to the exact year.

Mr. WITMER. Is that the case of *Helvey* v. *Blaisdell?*

Mr. TAYLOR. They were acquired after that. That is a different Mrs. Helvey. The first names are different.

Mr. WITMER. Yes, I believe they are. Is this a Mrs. Helvey, too, or a Mr. Helvey?

Mr. TAYLOR. K. F. is a woman, Katherine.

Mr. WITMER. Is she related to the other Mrs. Helvey?

Mr. TAYLOR. No. One was the first wife and one was the second wife.

Mr. WITMER. I do not quite know what that makes them to each other. It seems they have a husband in common.

Mr. TAYLOR. That is right.

Mr. WITMER. So that is no part of Mrs. Edna M. Helvey's chain of title?

Mr. TAYLOR. It is a part of it, yes. K. F. Helvey deeded her property to the first—I mean the first Mrs. Helvey deeded the property

to her husband and the husband deeded his property to the second Mrs. Helvey.

Mr. WITMER. I see. Then we get back to the first Mrs. Helvey. Is the source of her title the judgment in the case of Helvey against Blaisdell?

Mr. TAYLOR. I understand it is partially.

Mr. WITMER. Was that a contested action?

Mr. TAYLOR. I don't know. I was not the attorney.

Mr. WITMER. You were not the attorney in that case?

Mr. TAYLOR. No. I don't think they were. I mean they were contested in some instances by some parties and as to other parties they were not. You can't answer yes or no that way. I think the record speaks for itself in all of those cases.

Mr. WITMER. I do not have the records. That is the trouble. I just have a few fragments of it.

Mr. TAYLOR. I thought you had the judgments in front of you.

Mr. WITMER. No. That is the reason for my questions.

You say this is the partial source of her title to it. What other sources were there?

Mr. TAYLOR. If I answered that it would be from hearsay. I do not know of my own knowledge.

Mr. WITMER. I think your hearsay is better than our complete lack of knowledge.

Mr. TAYLOR. My hearsay is also based on certain deeds. That is completely hearsay before my time.

Mr. WITMER. Which themselves run back to 1897 or approximately?

Mr. TAYLOR. They run back years. I don't know to what years or to what dates.

Mr. WITMER. And these are deeds for the same property for which deeds had been given to the United States of America for forest lieu selection?

Mr. TAYLOR. That is what I understand.

Mr. WITMER. This is another one of these cases where the same party gave two parties deeds?

Mr. TAYLOR. No.

Mr. WITMER. No?

Mr. TAYLOR. No, there is no conflict of title. I mean as far as 99 percent. I can't say as to 99 percent of the properties involved there are no two people claiming interest in any of these properties. It is all vested in the Ranch Development Co.

Mr. WITMER. I believe the United States of America is claiming title.

Mr. TAYLOR. I thought you meant private parties.

Mr. WITMER. I still regard the United States of America as being fairly important.

Mr. TAYLOR. I misunderstood you. I thought you meant private claims. No, there aren't two private claims.

Mr. WITMER. But there are two people, one the United States of America and one some private claimant, at the present moment Ranch Development Corp. operating through this chain which stems at least partially from the judgment in *Helvey* v. *Blaisdell* and in part, perhaps, through deeds which were granted after the land had been deeded to the United States.

Mr. TAYLOR. I have never seen any document nor have received any notice of any kind that the United States was claiming any interest in this property.

Mr. WITMER. Mr. Taylor, do you retain any interest in these properties?

Mr. TAYLOR. Yes, I do. It is in the recorded deeds.

Mr. WITMER. Is that a 20-percent mineral right?

Mr. TAYLOR. A 20-percent mineral right, yes.

Mr. WITMER. You have no further interest?

Mr. TAYLOR. Except I have mortgages for my clients and for myself back on a great deal of the property, but I mean as to the actual fee of the property I am not claiming anything additional.

Mr. WITMER. Do you have any financial interest in the Ranch Development Corp.?

Mr. TAYLOR. None whatsoever.

Mr. WITMER. And you are not an officer of the corporation?

Mr. TAYLOR. I am not an officer. As I say, I had no dealings with them whatsoever until I made this agreement, and I made this agreement with them, and I have also sold them a couple of other pieces of land that did not involve any forest exchange land since that time.

Mr. WITMER. So, in effect, what we have in this particular instance is K. F. Helvey to her husband, from him to the second wife, from the second wife in consideration of legal services rendered and to be rendered from you to you and the Ranch Development Corp., with you retaining an interest.

Mr. TAYLOR. As to part of the property. As to the other part of the property it was traced to other people through a man named Wanters, and a person named Foster. They are my clients. I represent them also.

Mr. WITMER. Do you recall what the consideration was for the transfer to the Ranch Development Corp.?

Mr. TAYLOR. The Ranch Development Corp.?

Mr. WITMER. Yes.

Mr. TAYLOR. I stated there were three or four. I stated specifically——

Mr. WITMER. My memory has probably slipped.

Mr. TAYLOR. I stated they were to get title reports on the property, to survey the property, if necessary, to make application to the United States of America, to clear up the title, to pay cash consideration, and then allowing us to retain—I say "us"—my clients and I to retain certain mineral rights.

Mr. WITMER. What was that cash consideration?

Mr. TAYLOR. In view of the fact that I was acting as an attorney for my clients and I did not realize this matter would be brought up here, I did not ask their consent as to whether I could testify as to how much they received.

Mr. WITMER. Will you be good enough to ask their consent?

Mr. TAYLOR. I will ask their consent, if it is material in this case, as to how much it is.

Mr. WITMER. Thank you. I think the committee regards it as material. Thank you very much.

(COMMITTEE NOTE.—The material referred to had not been received by the committee as of the date of printing.)

Mrs. Prost. Are there further questions?

Thank you very much, Mr. Taylor.

The Chair would like to state that our time is running very short. Our next witness is William B. Murray.

STATEMENT OF WILLIAM B. MURRAY, ATTORNEY AT LAW, PORTLAND, OREG.

Mr. Murray. Madam Chairman and gentlemen of the committee, I have been engaged in the practice of law for approximately 30 years. I am an active member of the Oregon State bar and the American Bar Association and currently serving as a member of the subcommittee on timber, Committee on Natural Resources, of the American Bar Association.

My interest in the bill (H.R. 9142) is the interest of my client Charles M. Dollarhide. Mr. Dollarhide of Mitchell, Oreg., is a prominent cattleman and timberman in eastern Oregon. He states that he has approximately $100,000 invested in 1897 scrip, 240 acres of forest lieu and 60 acres of Santa Fe Railway scrip. He wishes me to point out for him the reasons why this bill should not be enacted into law.

My client's company, Madera Timber Co., is the owner of the 240 acres of forest lieu scrip concerning lands in California described as:

Parcel I, 80 acres: north half of northeast quarter of section 18, township 5 south, range 24 east, MDM, Madera County, Calif.

Parcel II, 160 acres: northeast quarter of section 16, township 25 south, range 32 east, MDM, Kern County, Calif.

In addition to owning these lands, my client is the owner of an obligation of the United States, a vested property right, described as a "floating grant of real estate" to trade parcels I and II to the United States for other public lands which it may choose to select in lieu thereof.

These selection rights were made obligations of the United States by acts of Congress of June 4, 1897 (30 Stat. 11, 36), as amended and supplemented by the acts of June 6, 1900 (31 Stat. 588, 614); March 3, 1901 (31 Stat. 1010, 1037); and March 3, 1905 (33 Stat. 1264); and the act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483); and the act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872).

In the press release of the Committee on Interior and Insular Affairs concerning the House hearing on public land claims set for November at Fresno, Calif., the act of September 22, 1922 (42 Stat. 1017; 60 U.S.C. 483) would be repealed and reconveyance of land in such circumstances under the act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872) would be prohibited.

It is proposed by this bill to pay $1.25 per acre for the land conveyed by the owner to the United States. The act does not apply to persons who have received their lieu selections or to persons who have received a reconveyance of their lands (H.R. 9142, ll. 2–5, p. 2).

Selection rights, which have been referred to by the courts as "scrip" have been sold widespread to the public by the original owners, Government grant railroads, and others who owned and sold them. Scrip has been dealt with as "street certificates" and it has passed like Government bonds from buyer to buyer. Unlike Government bonds payable in money, scrip is a Government obligation payable in land. It is property in the highest sense of the term.

If the sponsors of this measure really wished to have the Government take land for public use from its citizens owned by them in national forests, then instead of sponsoring this measure to take away selection rights, a bill should be introduced to encourage owners of lands in national forests to trade them and select other lands. According to available information, 47 percent of all land in California is owned by the Federal Government—approximately 90 million acres.

If the sponsors of this measure really wished to take property for public use, they should do so in a lawful and constitutional way.

Constitution of the United States, amendment 5:

> * * * nor shall private property be taken for public use without just compensation.

Article 7, trial by jury in civil cases—

> In suits at common law, when the value in controversy should exceed $20, the right of trial by jury shall be preserved * * *

Surely the taking of property, in this instance land and the selection rights known as "scrip," like the taking of any other property, should be done by condemnation proceedings in a court of law and by trial by jury. To permit this measure to pass and to uphold it as law would set a dangerous precedent. It would permit the Government to take property of any citizen at any price without regard to the true value of the property taken. It would permit the taking of property without just compensation.

Certainly, to take my client's land or his selection rights on 240 acres for $1.25 per acre would be most unfair and unconscionable; that is, $300 for a $100,000 investment. When one considers the acts of Congress under which the property rights of my client were created and the decisions of the courts upholding those rights, it should become apparent that the measure under consideration, in its present form, is ill advised.

(Committee Note.—Omitted at this point in Mr. Murray's statement are extracts from the texts of certain statutes, appearing on p. 6.)

The bill proposes to give to landowners $1.25 per acre for their lands (L. 5, p. 2). The draftsmen of the bill assume that the Government acquired title to the lands from the owners of the lands. This is an erroneous assumption. In instances where the landowners did not receive lands in lieu of their lands conveyed to the Government, the owners retain title to their lands even though they might have executed deeds to the Government. By the execution of deeds to the Government, the Government did not take title to the lands. The Government does not acquire title to the lands until it deeds to the original owner of the base lands title to the lieu lands. The Government's proposal to trade other land was not completed. There was no consideration passing from the Government to the landowners for their base lands in those instances where selection of lieu rights was not completed.

The bill under consideration proposes to repeal the 1930 act. The 1930 act granted authority to the Government to reconvey lands to the owners of the base lands. The purpose of the 1930 enactment was to enable owners of base lands to clear their titles. The effect of such a deed from the Government was not to reconvey base lands to the owners of the base lands. The purpose of the 1930 enactment was to

1930 act is repealed it would be necessary for owners of the base lands to ask the courts to quiet title to the base lands. This would create needless and useless litigation.

The decisions of our courts are in accord in holding that the Government does not acquire title to the base lands merely because the owners of the base lands executed and placed of record deeds of the lands to the Government. The cases supporting this view are enlightening upon this point.

Downer v. *Grizzly Livestock & Land Co.* (1935) (vol. 43, p. 2d, p. 843) (District Court of Appeals 34th Dist. Calif.):

Where patentee of land in national forest executed conveyance reciting desire to relinquish such land to the United States and to select other lands under 1897 statute, and also executed irrevocable powers of attorney authorizing holder thereof to select such other lands, and holder's application for other lands was rejected and canceled because filed after repeal of statute, title was held to have remained in patentee, and remedial statute enacted in 1922 for persons dilatory in filing land applications did not retroactively establish title in the Government where patented land had been sold to the State for taxes for 1921–22, and hence title based on tax deed should be quieted as against holder of such powers of attorney.

Here the base land is in question. Patentees of land inside Santa Barbara National Forest in 1905 attempted to scrip their land and conveyed the base land to the United States and for valuable consideration issued two irrevocable powers of attorney whereby Andrew Morrow became their successor in interest and entitled to make selection of lieu land in exchange for the base land. Morrow made his selection too late and the application was rejected. After the relief act of 1922, in 1926 Morrow got quitclaim deed from the Government relinquishing to Morrow whatever title the United States may have acquired by virtue of the deed from Mary Harris and her husband in 1905, and Morrow gave warranty deed to Grizzly Livestock & Land Co.

Meanwhile the State had taxed the land and it had been sold to the State for nonpayment of taxes and redeemed in 1920 and in 1922. The tax title had been conveyed to Downer, the plaintiff.

The question was whether the United States had taken title as a result of the deed from the Harrises in 1905 and whether the land had remained subject to taxation under the laws of the State of California.

It was held that no title could pass to the United States until the application to select the lieu land is approved. *U.S.* v. *McClure* 174 F. 510, *Cosmos Exploration Co.* v. *Gray Eagle Oil Co.* 190 U.S. 301, 23 S. Ct. 692, 24 S. Ct. 860, 47 L. Ed. 1064. The mere execution and recording of a deed and the tender thereof vests no title in the Government. Until the deed and title are examined and approved, it is a mere assertion by the applicant of his title and rights to make the selection. The equitable if not the legal title remains in him. The deed and tender thereof amounts to nothing more than an offer by the owner to exchange one tract of land for another, and the title does not pass to either party until the exchange is effective. Until the deed is accepted, the owner of the land offered in exchange retains title thereto, either legal or equitable, and the land department has no authority to determine the validity of the title offered, if it is defective, or there is some adverse claim thereto. *State* v. *Hyde* 88 Or. 1, 169 p. 757, 761, 171 P. 582, Ann Cas. 1918 E. 688; *Roughton* v. *Knight* 219 U.S. 537, 31 St. Ct. 297, 55 L. Ed. 326. It is therefore obvious that

title never passed to the United States but remained in Mary Harris and that the land was still subject to assessment and taxation under the laws of the State.

The act of 1922 cannot nullify the decisions of the Supreme Court of the United States establishing property rights before the passage of the act by Congress. The *Begue* case is distinguished because it was a contest between the parties to the original transaction as claimants of the base land. Begue, after selling all his rights to the base land and the lieu land and receiving payment therefor could not prevail as against the vendee. The dictum in the *Begue* case to the effect that the United States got title by Begue's conveyance was not the question involved.

Here Downer's title under the tax deed vested under the law and decisions of the Supreme and Circuit Courts of the United States prior to the enactment of the act of September 22, 1922, that act cannot be construed as canceling or in any manner affecting the validity of that vested right.

Begue versus Grizzly Livestock & Land Co. et al (1932) (vol. 1, F. Supp, p. 229) (D.C.S.D. Calif. Central Civ.) :

Action on behalf of plaintiff to quiet title to land within Santa Barbara National Forest submitted on agreed statement of facts. Plaintiff acquired title under patent from the United States on July 29, 1903, and January 18, 1905, after the Santa Barbara National Forest was created; executed a relinquishment of the land under Forest Reserve Lieu Selection Act of June 4, 1897, at the request of Sigler, a scrip dealer. Sigler paid him an unknown sum of money and agreed to pay more when lieu lands should be selected. This was never done.

Relinquishment conveyed title to the United States to land in question. As part of the same transaction, plaintiff executed a power of attorney authorizing his attorney in fact to select and apply for lieu land under the act. He executed a separate power of attorney authorizing his attorney in fact to enter into and take possession of the lieu lands and to sell and convey good title to it. These two documents were executed before the name of the attorney in fact was inserted. They were delivered thus to Sigler, who for a valuable consideration sold the interest thus created by the relinquishment and the two documents to Moody, who represented defendant Andrew Morrow, the real party in interest. Neither Moody nor Morrow had any knowledge of the agreement between Sigler and plaintiff that Sigler would pay more money to plaintiff.

Morrow's attempt to select lieu land was rejected as not having been filed in time because the act of March 3, 1905 (33 Stat. 1264), had been passed meanwhile. No further action was taken by plaintiff until commencement of present action in 1930.

On November 22, 1926, after passage of the act of September 22, 1922 (16 U.S.C.A. 483), defendant Morrow applied for conveyance to him of the land originally relinquished by plaintiff. On April 6, 1928, the land office issued to Andrew Morrow quitclaim deed conveying all title to the lands in question that the United States acquired by the relinquishment executed by plaintiff on January 18, 1905.

1. Begue "scripped" his land. In effect, he sold the land to Sigler, a dealer in scrip, who paid part at least of the consideration and whatever remained due was a personal credit extended to Sigler. This is made evident by the deed of relinquishment and powers of attorney executed at the time. Plaintiff made anybody whom Sigler might designate his attorney in fact to select, receive, and sell the lieu lands. While it is true this action purports to be authorized in his behalf and for his account, it is evident that he had no further interest whatever in the lands, neither the tract which he relinquished to the Government nor the tract which might be selected in lieu thereof. His long silence fully establishes this.

2, 3. Defendant Morrow was a purchaser in good faith of scrip, paying full consideration to Sigler. The court properly takes judicial notice of the system popularly known as "scripping." It meant the purchaser of the scrip, that is, of the right resting in the owner of the land within the forest reserve who relinquished it to the Government to make a selection of land elsewhere, had full and complete beneficial interest in the right thus created and might make his selection unreservedly so far as the relinquisher was concerned and obtain complete title to the lieu selection. *Sandpoint Lumber & Pole Co., Ltd.* v. *Anderson*, 32 Idaho, 571, 186, p. 254.

4, 5. The duty of determining to whom the land should be reconveyed rests upon the Land Department and its decision upon a question of fact is ordinarily conclusive. The Commissioner of the General Land Office recited the relinquishment by plaintiff and wife under the act of June 4, 1879, which selection was filed after the passage of the act of March 3, 1905, and the act of September 22, 1922, authorizes the commissioner to quit claim to the persons making such relinquishment the selection, their heirs or assigns, the title thereby vested in the United States, and whereas Andrew Morrow had furnished evidence showing that as to the lands described he is the party in interest and entitled to the benefits of the act of September 22, 1922, the deed was executed to him.

6. Plaintiff contends that title of Begue never was vested in the United States because the relinquishment was never filed in the local land office. The act of June 4, 1897, does not require the filing. Any instrument effective to convey title to the Government undoubtedly is sufficient.

7. The Commissioner of the General Land Office must have determined that the title did vest in the United States when he executed the quitclaim deed to one other than one making the original relinquishment. Departmental action is itself entitled to considerable weight in the interpretation of statutes of doubtful meaning.

Judgment was for defendants.

Sandpoint Lumber & Pole Co., Ltd., versus Anderson (1919) (vol. 186 Pac., p. 254) (Idaho Supreme Court):

On April 15, 1901, Patten, owner of land in a forest reserve, relinquished it to the United States and acquired the right to select lieu land in the public domain under the act of 1897. As is usual practice in such cases, he issued two powers of attorney, one to authorize his

attorney in fact to select lieu land and the other irrevocable authorizing the attorney in fact to sell and convey the land selected. The name of the attorney in fact was left blank. A scrip broker sold the right to make the lieu selection to John E. Irvine, who recorded the power of attorney and then decided not to select the land and resold the powers of attorney to the broker. H. C. Culver then purchased the powers of attorney and Irvine's name was erased and Culver's name was written in. Culver selected the land and sold it to plaintiff Sandpoint.

Later, Irvine was tricked by defendant Anderson's representative into making a quitclaim deed as attorney in fact for Patten, in the belief that he should do so to correct title.

Sandpoint's title is upheld.

It was held that the substance of this transaction was the purchase of the right to make the selection of and to acquire title to land in lieu of that released by Patten, accompanying which was the right to designate the attorney in fact. Those rights belonged to Irvine when he bought them and were resold by him to the broker. When the broker sold the rights, neither Patten, the broker, nor Irvine had any interest in them. Under these circumstances, the erasure of Irvine's name from the powers of attorney and insertion of Culver's name in its stead created a substitution of attorneys in fact.

When the land had been selected and the United States had issued its patent therefor, Patten held the naked legal title in trust subject to the right of Culver, his attorney in fact, to deed it to whoever the latter might select to receive it. His conveyance to Sandpoint is valid.

See also earlier cases supporting the doctrine that the deed to the Government creates no title to the Government (*State* v. *Hyde* (1918) (88 Ore., 169 Pac. 757, 171 Pac. 582); *Roughton* v. *Knight* (1910) (219 U.S. 537, 31 S. Ct. 297); *U.S.* v. *McClure et al.* (1909) (174 Fed. 510); *Moses Land Scrip & Realty Co.* (1906) (34 L.D. 458); *In the matter of C. W. Clarke* (1103) (32 L.D. 233).)

Therefore, for the foregoing reasons the proposed bill, H.R. 9142, should not be enacted into law.

May I say that I represent people who own the base lands and also who own these selection rights. There have been instances like the instance with Mr. Buhler and his associates where people have gone around to the heirs. My people have the deed from the original owner. The Buhler people have gone to the heirs, and even though the ancestor has divested himself of interest in the base lands and the selection rights, nonetheless they have prevailed upon some of the heirs to give them quitclaim deeds upon the representation they are looking for lost lands, and they enter into a contract to an arrangement of 66⅔ percent to the Buhler interests.

Mrs. Pfost. I am very sorry, Mr. Murray, but your time has expired.

Are there questions for Mr. Murray?

Mr. Ullman. These lands that are owned by your client, are they in Oregon, California, or where primarily?

Mr. Murray. In California. There are, of course, lands under the 1898 act in Oregon that they own.

Mr. ULLMAN. There are some lands in Oregon?

Mr. MURRAY. That is right; some in Arizona. The Santa Fe Railroad had a lot of lands and they received a deed back to its land, and there is no reason why people that have these lands should not receive the treatment the Santa Fe received.

Mr. ULLMAN. He has a total of how much land?

Mr. MURRAY. In these two counties here, there is 80 acres in Madera County and about 160 acres in Kern County. The base lands are in Oregon or in Arizona or in other areas.

Mr. ULLMAN. Thank you.

Mrs. PFOST. Mr. Landstrom?

Mr. LANDSTROM. Did you use interchangeably the 1897 and 1898 acts in referring to scrip rights? You made some reference to the 1898 act.

Mr. MURRAY. That is a different act; yes.

Mr. LANDSTROM. Are some of these claims of your clients under the 1898 act?

Mr. MURRAY. I did not discuss those rights at this time, just the 1897 act.

Mr. LANDSTROM. That is all.

Mrs. PFOST. Thank you, Mr. Murray.

Our next witness is Mr. Jendren, district attorney of Madera County.

STATEMENT OF LESTER J. JENDREN, DISTRICT ATTORNEY, MADERA COUNTY, CALIF.

Mr. JENDREN. Madam Chairman, my name is Lester J. Jendren. I am district attorney in and for the county of Madera. I will try to make this as short as possible.

I do not have a prepared text. However, I would like to very briefly explain the situation and what has happened in Madera County and the property values put in question by the operation of the Ranch Development Corp.

On July 23, 1958, the Ranch Development Corp. filed with the county assessor of the county of Madera a request to assert properties in their name.

Now, Mr. Ely testified here before that only a couple parcels of private property were involved. I would like to submit to you the titles, the descriptions, the acreage involved, the assessed valuation of the private ownership claimed by the Ranch Development Corp. in the county of Madera.

It amounts to total acreage of 834 acres. There are 12 property owners. The assessed valuation is $7,350 as far as lands, and improvements are $3,360.

You must remember that this is assessed valuation as it now stands and is probably one-fourth the actual and true value.

Mrs. PFOST. Without objection, the list will be placed in the record at this point. Is there objection?

Hearing none, it is so ordered.

Property included in request of Ranch Development Corp.

Title	Description	Acreage	Assessed value	
			Land	Improvements
Botts, Thomas J. and Daniel T., Post Office Box 875, North Fork, Calif.	E½ of lot 4, less road sec. 7, T.8S., R.23E.	17.12	$240	None
Brittsan Motors, 590 Van Ness Ave., Fresno, Calif.	NE¼ of SE¼; E. 35 acres of SE¼ of SE¼; E. 5 acres of NW¼ of SE¼. Sec. 16, T.5S., R.23E., W. 35 acres of NW¼ of SE¼; SW¼ of SE¼; W. 5 acres of SE¼ of SE¼; SW¼, less ½ acre.	239.50	2,970	None
	Sec. 16, T.5S., R.23E. N½ of NW¼ of NW¼. Sec. 20 T.5S., R.24E.	20.00	200	None
Brittsan, L. T. and Simone, 2921 Princeton Ave., Fresno, Calif.	N½ of NE¼ of NW¼; N½ of S½ of NE¼ of NW¼; N½ of S½ of NW¼ of NW¼. Sec. 20, T.5S., R.24E.	40.00	400	None
Brittsan, Don H. and Gretta G., 451 Evelyn St., Fresno, Calif.	S½ of NW¼; S½ of S½ of N½ of NW ¼. Sec. 20, T.5S., R.24E.	100.00	1,000	400
Goodwin, Vincent T. and Ann B., Post Office Box 172, North Fork, Calif.	A lot 210 feet east and west by 105 feet north and south in sec. 16, T.5S., R.23E.	.5	50	150
Lucas, Douglas H. and Alberta, 2421 Vuelta Grande, Long Beach, Calif.	SE¼ of SW¼ of SW¼; SE¼ of SW¼ lying SW of road. Sec. 20, T.8S., R.23E.	49.4	250	None
McSwain, Dan, Post Office Box 862, North Fork, Calif.	Lot 7, Government survey. Sec. 7, T.8S., R.23E.	19.83	150	None
Schlichting, Oscar J. and Hedy, Post Office Box 133, North Fork, Calif.	NE¼ of NE¼ sec. 29, T.8S., R.23E---	40.00	200	None
Wahlberg, Arthur C. and Julia R., 1805 Arthur St., Fresno, Calif.	NE¼ of SW¼ sec. 20, T.8S., R.23E---	40.00	180	None
Wasson, Elsie P., 826 Cherry Ave., Clovis, Calif.	E½ of NW¼ of SW¼; NE¼ of SW¼ of SW¼, less county road sec. 20, T.8S., R.23E.	28.50	130	440
Thede, Bertha Wood, 1271 Portland Ave., Albany, Calif.	NE¼ of NE¼; N½ of SE¼ of NE¼. Sec. 17, T.6S., R.22E.	60.00	210	None
Fresno Southern Baptist Association, 1877 Hedges, Fresno 5, Calif.	E½ of SE¼; S½ of NE¼ of NE¼. Sec. 17, T.6S., R.22E.	100.00	530	2,370
Total		834.85	7,350	3,360

Mr. JENDREN. The assessor's office of the county of Madera has furnished me also with a property request of the Ranch Development Corp. of property held in title to the U.S. Government. It amounts in toto to acreage of 4,739.14. The assessed valuation is $24,974.

The committee must remember this does not represent an actual on-the-spot appraisal of the property, because the assessor does not have the facilities or the time to go out and actually appraise the property in question. These were merely estimates for the purposes of ascertaining how much property value is involved.

I will also say this: That the improvements, such as standing timber on this property, is not represented on this statement, since, of course, we have no way of cruising the timber and putting in a valuation. All told, in our opinion, it represents a land grab of well over $150,000 in Madera County alone.

I would like to put this list in the record also.

Mrs. PROST. Without objection, this list of the property will be placed in the record at this point.

Is there objection?

Hearing none, it is so ordered.

Property included in request of Ranch Development Corp.

Title	Description	Acreage	Assessed value	
			Land	Improvements
	T. 4 S., R. 25 E.			
United States.	Lots 2, 3, 6, and 7, sec. 4 SW¼ of SE¼, sec. 5 Lots 1 and 10, sec. 6	40.00	$200	
	NW¼ of NE¼; NE¼ of NW¼, sec. 7	80.00	400	
	SW¼ of SE¼, sec. 11	40.00	200	
	SW¼ of SE¼, sec. 12	40.00	200	
	W½ of NE¼; E½ of SE¼, sec. 13	160.00	800	
	SW¼ of NW¼, sec. 13	40.00	200	
	SE¼ of NE¼; NE¼ of SE¼, sec. 14	80.00	400	
	E½ of NE¼; S½ of SW¼, sec. 17	160.00	800	
	NW¼ of SE¼; SE¼ of SE¼, sec. 18	80.00	400	
	E½ of NW¼, sec. 20	80.00	400	
	NW¼, sec. 21	160.00	800	
	T. 5 S., R. 23 E.			
	W½ of NE¼; SE¼ of NE¼; NE¼ of SE¼, sec. 25	160.00	800	
	SW¼ of NW¼, sec. 27	40.00	200	
	SW¼ of SE¼, sec. 34	40.00	200	
	S½ of SW¼, sec. 35	80.00	400	
	T. 5 S., R. 24 E.			
	SE¼ of SW¼; SW¼ of SE¼, sec. 14	80.00	400	
	SE¼, S½ of NW¼; N½ of SW¼; SE¼ of SW¼, sec. 16.	360.00	1,800	
	NE¼ of SE¼, sec. 17	40.00	200	
	Lots 1 and 2, sec. 19	82.53	410	
	T. 6 S., R. 22 E			
	Lots 4 and 13; SW¼ of NW¼, sec. 2	124.63	790	
	E½ of SE¼, sec. 3	80.00	500	
	SW¼ of NW¼; lot 4, sec. 5	75.83	480	
	SE¼ of NE¼; NE¼ of SE¼, sec. 6	80.00	500	
	SE¼ of SE¼; NW¼ of NW¼, sec. 10	80.00	500	
	NE¼; N½ of SE¼, sec. 21	240.00	1,500	
	NW¼; lots 3 and 4, sec. 22	245.70	1,540	
	SE¼ of SE¼, sec. 26	40.00	250	
	T. 6 S. R. 23 E			
	SW¼ of NW¼; NW¼ of SW¼, sec. 2	80.00	400	
	Lot 10; NE¼ of SE¼, sec. 4	80.00	400	
	NW¼ of SW¼, sec. 5	40.00	250	
	NW¼; N½ of NE¼, sec. 16	240.00	1,200	
	Lots 3 and 4; SE¼ of SW¼; NW¼ of SE¼, sec. 19	162.05	810	
	All sec. 36	640.00	3,200	
	T. 6 S., R. 24 E.			
	SW¼, sec. 17	160.00	800	
	Fraction NW¼, sec. 18	162.57	810	
	SE¼ of NW¼; NE¼ of SW¼; SE¼ of NE¼; NE¼ of SE¼, sec. 35.	160.00	800	
	T8S R23E			
	S½ of lot 3 and W½ of lot 4, sec. 7	45.83	230	
	NE¼ of NE¼, sec. 12	40.00	200	
	SE¼ of SE¼, sec. 19	40.00	200	
	W½ of W½ of SW¼, sec. 20	40.00	200	
	NW¼ of SE¼, sec. 36	40.00	200	
	Total in name of the United States exclusive of property in secs. 4 and 6, T. 4 S., R. 25 E. (No maps available to determine acreage.)	4,739.14	24,970	
	Total privately owned	834.85	7,350	$3,360
	Total	5,573.99	32,320	3,360

Mr. JENDREN. This request of the Ranch Development Corp. was made pursuant to 610 of the revenue and taxation code, which authorizes any individual to be listed as coassessee of the property.

The attorney general has made an opinion saying that the counties must put this on the tax roll. I must say there has not been any judicial determination by a court of law on this particular point. The attorney general's opinions are excellent authority and are guiding the counties in their operation but are actually not a judicial precedent. So, therefore, we do not feel it obligatory as far as following to the letter of the opinion, that is, Madera County.

On March 17, 1959, at 2 p.m., the matter was presented to the Board of Supervisors of Madera County, and they instructed and ordered the county assessor—I will read this order:

"On motion made by Supervisor Christoffersen, seconded by Supervisor Norby, unanimously carried, it is ordered that the county assessor be and he is hereby authorized to refuse to list the Ranch Development Association or anyone else as coassessee until bona fide evidence of ownership is produced, or by order of the court."

I would like to put this in the record.

Mrs. PROST. Without objection, this order will be included in the record. Is there objection?

Hearing none, it is so ordered.

(The document follows:)

OFFICE OF THE BOARD OF SUPERVISORS
OF MADERA COUNTY, STATE OF CALIFORNIA,
Madera, Calif., March 17, 1959.

Board meets pursuant to adjournment.
Present: Full board.

IN THE MATTER OF AUTHORIZING COUNTY ASSESSOR TO REFUSE TO LIST RANCH DEVELOPMENT ASSOCIATION OR ANYONE ELSE AS COASSESSEE

On motion made by Supervisor Christoffersen, seconded by Supervisor Norby, unanimously carried, it is ordered that the county assessor be and he is hereby authorized to refuse to list the Ranch Development Association or anyone else as coassessee until bona fide evidence of ownership is produced, or by order of the court.

Attest:

C. C. CLARK, *Chairman.*
ERMA E. CHEUVRONT, *Clerk.*

Foregoing instrument is a correct copy of the original on file in this office.
Attest March 19, 1959:

[SEAL] ERMA E. CHEUVRONT,
County Clerk and Clerk of the Board of Supervisors in and for the County of Madera, State of California.
By S. E. ROBERTS, *Deputy.*

Mr. JENDREN. I might say this: In advising the assessor's office my office was of the opinion that the law is as stated by the attorney general's office. However, we felt it was not the legislative intent to have this particular section used in the way it is being used in this particular case. Therefore, it was our desire, my desire in particular and I know it is the assessor's desire, to have a real determination of whether or not this section was truly intended to be used in such a manner.

Mr. Taylor testified that it was his position that they were not seeking to establish adverse possession to the title of this property. I can see no other practical purpose for their activities under 610

other than to do exactly that, namely, establish adverse possession to all of these in lieu claimants and thereby bar them from any claim in the future, thereby realizing a windfall to the detriment of the taxpayers of the State and Nation.

I have also here a partial showing of title which I have placed as far as the Ranch Development Corp. It is quite involved.

The first one is, of course, action No. 427534, which is an action by K. F. Helvey, plaintiff, against H. W. Blaisdell. That is a decree quieting title.

I will go through it first.

The next one is K. F. Helvey, plaintiff, against W. C. Calhoun, and that is No. 460756, decree quieting title.

Also K. F. Helvey against C. U. Armstrong, et cetera, No. 450608, a decree quieting title.

Also I have here K. F. Helvey against Hamilton, Armstrong, et cetera, defendants, No. 443686, a decree quieting title.

On each one of those you will notice K. F. Helvey is the plaintiff. These, I might add, were recorded in the county of Madera, one in 1955, and the rest in 1957. They are out of order there.

Then we have a deed from Katherine F. Helvey, also known as K. F. Helvey, to A. C. Helvey, also known as Alfred C. Helvey, and it says she deeds property of whatever description and wherever located. That deed was dated August 28, 1940.

The next deed is from A. C. Helvey to Edna M. Helvey, wife of the grantor, and it is: "All of my right, title, and interest of whatsoever nature and wherever situated." And that was on the 29th of December 1952.

The next one is from Edna M. Helvey to William Morris Taylor, and that was dated March 23, 1954.

Mr. ULLMAN. What does that contain?

Mr. JENDREN. That contains the description conveying to Mr. Taylor—

all real property situated in the State of California of whatsoever nature and wherever situated, including reversionary rights and claims to real property, save and except the real property and rights described in two deeds executed by me on the 5th day of January 1954 to said William Morris Taylor conveying to him an undivided one-half of all my right, title, and interest in certain rights-of-way in Los Angeles and Orange Counties, Calif. And save and except any and all real property located in the unincorporated area of Desert Hot Springs, Calif., and save and except a certain 160 acres, owned by me, in Lucerne Valley, San Bernardino County, Calif.

Then, of course, I have deeds here from Taylor to the Ranch Development Corp.

There is also in the line of title several other deeds. One from a Georgette Foster, who obtained title through a W. L. Gosslin.

I do not want to put too much of this in, because it does become rather complicated and burdensome.

Mr. PFOST. I believe the instruments bringing the chain of title more nearly up to date, to which you referred, are very important for the record.

So, without objection, those instruments will be placed in the record.

Mr. JENDREN. Madam Chairman, I would like to place all the documents I have here in without going into detail. There is a quitclaim deed from Mr. Gosslin to Georgette Foster, two of those, one from

Georgette to George Foster, others to William Morris Taylor, or from him to the Ranch Development Corp., all a part of the title to this property.

I will give you all I have in my possession at this time.

Mrs. PFOST. All right, Mr. Jendren, with the understanding that the material will be gone over rather carefully by the staff so that those portions which are necessary for the record will be placed in the record, and the others that are not so pertinent can be placed in the file.

With that understanding, is there objection?

Hearing no objection, it is so ordered.

(COMMITTEE NOTE.—The material referred to has been placed in the committee file.)

Mr. JENDREN. Thank you, Madam Chairman.

There is one other item I would like to bring out, which is this: One of the items I think is very important for the committee to determine. There are 12 private owners involved in this particular transaction as far as the Ranch Development Corp. is concerned. Now, undoubtedly, they have a title originating from the U.S. Government some place along the line.

We have now a claim by a corporation that they are seeking to say that this deed from the Federal Government to these 12 individuals was faulty because the U.S. Government did not own the land. I think it is particularly important for this reason: that, if the Federal Government transferred land to private ownership here or any place else, then if there is a flaw in the title it is incumbent upon Congress and the U.S. Government to go back and perfect that title as much as they possibly can in order to protect the title they purported to convey to these private owners.

I think that is particularly true here in these 12 particular cases in Madera County. I feel this way: That Congressman Sisk's bill is very important and I think it should be passed in the interest of the people of these United States.

I have no further comments unless you have some questions.

Mrs. PFOST. Thank you very much, Mr. Jendren. We appreciate your helpful testimony.

Are there questions?

Mr. ULLMAN. One question. You used the figure of $150,000, I believe, and labeled it a land grab in Madera County.

Mr. JENDREN. Yes.

Mr. ULLMAN. Did you include timber values in that?

Mr. JENDREN. No, I did not, sir.

Mr. ULLMAN. Is most of this land timber land?

Mr. JENDREN. A substantial portion is timberland, yes, sir.

Mr. ULLMAN. You do not know what proportion?

Mr. JENDREN. No, I do not.

Mr. ULLMAN. But a substantial portion is timber land?

Mr. JENDREN. That is right.

Mr. ULLMAN. And when you get into timber land the main value is timber, and we have no way of actually knowing that value?

Mr. JENDREN. That is correct.

Mrs. PFOST. And you say you have had no method of cruising the timber, and therefore you have no idea of the values involved?

Mr. JENDREN. That is correct.

Mr. PROST. Would you have some estimate in your mind?

Mr. JENDREN. That is pretty hard to say. A lot of that land has been cruised over, I believe, already. However, I do feel there is a substantial amount of land. For example, Mr. Brittsan is here, I believe, and he can tell you approximately how much timber was sold from his property. If all of this land they are claiming is producing timberland, which I think a substantial portion is, it would go into several hundreds of thousands of dollars' worth of timber.

Mrs. PROST. Is that so? That is very interesting.

The gentleman from California.

Mr. SISK. I simply want to express to Mr. Jendren, the district attorney of Madera County, that I personally appreciate and thank him for his interest in this matter, because he has been most cooperative with me from time to time and has furnished me information at my request.

I appreciate very much your statement and am very happy to have you down here today to give us some additional information. I think the material you have submitted for the file and the record will be of substantial help in this.

Mrs. PROST. Does counsel have any questions?

Mr. WITMER. No, thank you.

Mrs. PROST. Mr. Landstrom?

Mr. LANDSTROM. No questions.

Mrs. PROST. Thank you again, Mr. Jendren.

Mr. JENDREN. Thank you.

Mrs. PROST. Our next witness is Mr. Chester Warlow.

You may proceed after giving your name, your title, if you have one, and whom you represent.

STATEMENT OF CHESTER H. WARLOW, FRESNO, CALIF.

Mr. WARLOW. My name is Chester H. Warlow, residence in the city of Fresno. I have resided in this community since 1889.

My present position is an unsalaried position with the State of Califorina, being one of the members of the California Highway Commission.

I think probably those attributes are probably the reason for my being asked to be here by some of the Government agencies.

I have had a very bad case of mountain mania since about 1913. I have traveled the central portion of the Sierras, and I hope you will pardon the expression, but the value of the opinion is based upon the background source, of course, of the individual.

From 1913 to 1930 I traveled extensively in 30-day vacations each year the high Sierras from high Yosemite down to Whitney.

Of course, 16 years on the California Highway Commission have given me quite a view of the opinion of the whole physical aspects of the State. I have been very active in chamber of commerce work and road work for at least 40 years, all of it without salary, of course.

With that background, I state that I am generally familiar with Mr. Sisk's bill, the purposes behind it, and I think it is much in the public interest.

The background of that public interest is the fact that the Sierra Nevada mountains from the area in the vicinity of Bakersfield north

clear to Shasta are, in addition to the other forest attributes, now becoming very valuable from the standpoint of recreational use.

The Forest Service and the Park Service can furnish you those figures, but the service and the use has been tremendous.

We are also faced in California here with an expanding population, a population at the present time of about 15 million people, an estimated 1980 population of some 27,800,000, with 1,600,000 people then in the seven southern counties of the San Joaquin Valley.

The Sierras are so situated that, with roads both on the east, U.S. 385, and the road to the San Joaquin Valley, the main highway being U.S. 99, you have that tremendous population of the area south of Tehachapi using both routes to get into the Sierras.

The integrity of the forest lands in the eastern portion of California and the park lands in the eastern portion of California is essential to that recreational development, and this attempt to acquire title, shall I say, if that is the most graceful thing to say, by private interests there is both against the public interest, and also the very expansion of that demand to acquire title to the lands is based upon this expanding recreational use.

I think Mr. Sisk's bill is reasonable. It goes back to the basic principle of who is entitled to the land in the first place, and what their uses were, and what their interests were in the land.

Then, if I might be so bold as to say so, I think the cure of the situation demands the return of those lands which have already been deeded out of the forest area and the park service back to the United States by a separate bill which would permit condemnation of those lands.

Now, in reference to that suggestion, and not talking about those lands that have been owned and used under the Swamp and Overflowed Act of the State of California and the U.S. Government, there is a vast amount of that land up there, and the Forest Service and the owners and those people have been getting along very nicely. But the ownership of private lands both in the national forests and in the national parks creates great administrative difficulties, and those matters will be explained in more detail.

This particular piece of land that was referred to this morning down in the Redwood Mountain area, I am generally familiar with that. It is highly developed land, Sequoia Gigantea, in a beautiful canyon. If privately owned, there would be only one answer, it would be slashed out of there.

I think that generally covers the public interest in what is going on.

We know from our general demands on the State highway department for recreational roads and such as that, which gives us the general picture.

I think the statement I have made about the expanding population and expanding demand relatively for these recreational areas is a fair and equitable statement and justifies the passage of the Sisk bill.

Thank you.

Mrs. PFOST. I might say, Mr. Warlow, this subcommittee has the responsibility of trying to provide adequate recreation areas for the expanding population, and our concern is to be able to supply not only the area but the money, too, with which to develop it.

The Chair recognizes the gentleman from Oregon, Mr. Ullman.

Mr. ULLMAN. I have no questions, Madam Chairman.

Mrs. PFOST. The gentleman from California, Mr. Sisk.

Mr. SISK. I would like to say, Madam Chairman, of course, for the benefit of the people here, Mrs. Pfost's subcommittee does have complete jurisdiction over all of our national parks.

That brings me to a question of Mr. Warlow, because I know something of his interest in our national parks over a period of a great many years, and of his particular qualification to speak on this subject because, after all, Mr. Warlow is not only a highly respected citizen of Fresno and, in fact, one of the first citizens of California, but a man who has spent, as he has already indicated, many, many months in this very area.

I would just like if you would make a few further comments as to the possible effects upon certain of these areas, particularly with relation to the national parks falling into private hands, and what they could do to them, and some of the problems we have run into because of certain lands today that are in question.

Mr. WARLOW. That is quite an involved subject. The Park Service would be more qualified to speak on that than I.

I do know of the difficulty. I do know of the problems of private lands in there, the control of, shall I say, general policing where private lands are available, and, to illustrate one point, where liquor is permitted in private lands, resulting in overflow of unsatisfactory conduct and such as that.

There are a number of factors in that respect that indicate that private land is detrimental both from the standpoint of it having just ordinary use and then these unusual uses that come up in connection with it.

To refer specifically, the Wilson area in General Grant National Park has been very satisfactorily maintained. It has 160 acres up there that has been privately owned, and the people are intensively developing it, and it is not the intention of my remarks that lands of that character are swamp and overflow lands that cattlemen have used for years should be involved in this kind of a take back.

Mr. SISK. I might just say, Madam Chairman, I appreciate very much Mr. Warlow taking the time to come before the committee and to state not only his personal position but the fact that he is certainly capable of speaking for a great many people in Fresno and Fresno County as well as for all the State of California and the needs which exist in this great vacationland as well as the fact, of course, it is the source of our water supply and a source of a lot of our timber as well as the source of a lot of our recreation, grazing, mining, and so on.

That is all.

Mrs. PFOST. Are there further questions?

Thank you very much, Mr. Warlow. We appreciate your contribution.

Mr. WARLOW. Thank you.

Mrs. PFOST. Our next witness is Mr. Arthur Wahlberg.

Do you have a prepared statement?

Mr. WAHLBERG. No, I do not have.

Mrs. PFOST. Identify yourself for the record, please.

STATEMENT OF ARTHUR C. WAHLBERG, ATTORNEY AT LAW, FRESNO, CALIF.

Mr. WAHLBERG. I am Arthur C. Wahlberg. I am an attorney at law at Fresno, Calif., and my office number is 1270 North Abbey Street, Fresno.

I appear here in a private capacity as a landowner in Madera County along with my wife, and also as attorney for some clients who own property up here. Both of us appear to have run into some trouble from the matter that is coming up here, and we have all looked with interest on this legislation which we hope will pass.

I might say that I hope you will look at the private owners' standpoint in regard to the legislation, too, so it not only helps the United States of America as a proprietor but also people who have worked hard.

Let me tell you how this thing has affected me. The first property my wife and I were able to acquire after we had a home was 120 acres up in Madera County, and some time after the war I found this piece of property on which taxes had not been paid for some years, and I found the heirs to this property after getting a title report from the title company and finding out who the heirs were.

After some long proceedings and one thing and another, I finally did come up with the title to the property and after I was about $7,000 poorer.

I put in a fence around the property, put on a house, and actually I think I made a pretty good deal.

I have possessed this property myself for over 10 years, paid the taxes on it for a longer period than that, actually going back to 1945. I have cut the brush on the property.

I have omitted to tell you that I did get a policy of title insurance on the property in the amount of $5,000, just to see I did own the property, from the Security Title & Insurance in Madera, Calif. My title stems from a certain patent No. 775,577 issued by the United States of America, a certified copy of which has been recorded in Madera County, and I am happy to give this to the committee to be used if the committee wants it, if it is material.

Mrs. PFOST. Thank you.

Mr. WAHLBERG. Actually, Mr. Merriman, the grantee, died and his interest went to Annie Stanwoot out in Honolulu, who died in 1926, and the property taxes were not paid for some years because the heirs were widely scattered in the United States.

Finally, I found them and paid all the back taxes and, as I say, possessed the property and paid the taxes for 10 years.

And now let me tell you about the case of Brittsan Motors, a limited partnership, L. T. and Donald H. Brittsan, of Fresno, Calif.

By the way, we all had these notices come that somebody wanted to be coassessed in 1959. This notice came then, but it did not come through the months and years that we occupied the property, paid taxes, built fences, everything else. No notices whatsoever, no claim of ownership, nothing, no letter, nobody asked us, nobody disputed the title, and then suddenly they want it coassessed.

It distressed my neighbors quite a good deal, many of whom have their life savings in this property.

The Brittsan Motors went to Lost Lake area in Madera County and acquired over 600 or 700 acres, something like that, up there, and along came the Ranch Development Corp. asking for coassessment on this property. But the Ranch Development Corp. did more than that. As to 80 acres of this property, they did record, as was stated by Mr. Jendren, the district attorney of Madera County, a certified copy of a judgment.

Here is the interesting part of this particular case of Brittsan Motors, a limited partnership.

The interesting part of this situation is that I included property within a suit to acquire title on this property on which I had policies of title insurance from the Security Title Insurance Co. I did not sue on all the Brittsan Co. owned because some of the property is occupied individually, but I did include the south half of this section, which is section 16 in township 5 south, range 23 east.

As I say, I particularly put in the half of the section and even another little piece of property which is covered by title insurance. Well, I will not give it because of the shortage of time.

It is a little 10-acre piece up in the corner of the section.

I had the two policies of title insurance on all of the property sued on except for 80 acres, in which we had a title report which said that we had to do certain things to clear the title. According to the title report on the 80 acres, which was clouded by the abstract of judgment, they stated the record title is in Brittsan Motors, a limited copartnership, composed of, but is clouded by the deed in one of the Helvey cases which was put on record here.

Let me refer to the policies of insurance which cover portions of this property, if the committee would like.

One is policy No. 47649 of the Security Title Insurance Co. That was issued October 19, 1956. It says:

The title to this particular property—

which is over 80 acres, I believe—

is in Brittsan Motors and it is insured.

There are exceptions. The reservations are contained in a patent to the United States dated August 1892—

subject to any vested and accrued water rights for mining, agricultural manufacturing—

and so forth. That is in all U.S. Government patents. That is the only reservation.

Also, this other policy of title insurance, No. 47598, issued by the same Security Title Insurance Co., October 28, 1956, is to another small portion of property.

The last thing I want to point out to you is the problem connected with the 80 acres which were clouded and on which I had to file a quiet title action, and that action is still pending, and we have quite a bit of work to do on it.

The chief problem here was any interest of K. F. Helvey by reason of a decree quieting title. It is Superior Court case No. 460756, in and for the County of Los Angeles, and is roughly Helvey against Calhoun and others. You have a certified copy of the decree.

Listen to this:

All interest of K. F. Helvey has since passed to and has now vested in Ranch Development Corp., a Nevada corporation, as to the real estate, and an undivided 75 percent in and of all oil, gas, hydrocarbons, minerals, uranium and chemicals in and upon the herein described and other property. William Morris Taylor, a married man as his sole and separate property, an undivided 20 percent of all oil, gas * * * Edna M. Helvey 2½ percent interest, Mrs. George N. Foster and Georgette McGregor, 2½ percent interest in oil and gas—

and so forth.

Incidentally, there is none up there. I know that. You can't even get it further down.

Now, there is a mortgage affecting this and other property dated May 6, 1957, made by Ranch Development Corp., a Nevada corporation, to secure an indebtedness of $3,280 in favor of William Morris Taylor, mortgagee.

In order to quiet title to this property, I have to get hold of Helvey, McGregor, and a lot of people, and Foster, and everybody, and I don't know who they were. I asked them a lot of questions by interrogatories a couple of months ago. I don't know where they are, how to serve them with summons or anything else. That is my story.

Mrs. PFOST. Do I understand you correctly to say that you had acquired this property, and developed it to the extent that you mentioned with fencing and other developments?

Mr. WAHLBERG. Yes.

Mrs. PFOST. And then someone came along and asked it to be coassessed?

Mr. WAHLBERG. Yes. In other words, the Ranch Development Corp. in 1959 asked the Madera County assessor to coassess.

Mr. PFOST. Which throws a cloud on your title to the extent you have to go into court in order to protect it?

Mr. WAHLBERG. No, that is wrong. I mentioned two deals. The first was private property I own in which they have quieted my title. The other one was the Brittsan Motors who owns considerable property up in the mountains further in on which there was a definite cloud, a certified copy of the decree recorded on 80 acres, with little mineral interests and so forth.

Mrs. PFOST. I see.

Mr. WAHLBERG. On the rest of it, I have policies of title insurance, which I thought was interesting to this committee because apparently Mr. Ely thinks he has title insurance on all of these things he pursued.

Mrs. PFOST. Thank you very much.

The gentleman from Oregon.

Mr. ULLMAN. I wonder what would happen if you purchased a larger policy from the company now. Would they rewrite this?

Mr. WAHLBERG. These policies?

Mr. ULLMAN. Would they write you a policy for $15,000?

Mr. WAHLBERG. On my property?

Mr. ULLMAN. Yes.

Mr. WAHLBERG. I really don't know. They may be asked to, I don't know. I imagine they will. I have been in quite extensive contact with their chief counsel down there. That is another story. I think the title companies ought to be a little more interested in this thing than they apparently are.

Mrs. PFOST. The gentleman from California?

Mr. SISK. I certainly want to express my appreciation for your coming down and making this statement, Mr. Wahlberg. I think this very well illustrates the problem that many of the private landowners up there are confronted with in the attempt to get a lot of this land coassessed, which certainly is an attempt, if nothing more, to becloud the title.

Do you know how many pieces are involved in a similar fashion? Are you familiar at all with that?

Mr. WAHLBERG. I know maybe two-thirds or half of the ones that were named by the district attorney here today. I know the Schlichtings. They have a place right down from us. We are very good friends. I gave him a horse. He came up from southern California and spent all the money he had to buy the ranch down there.

I know policy titles have been issued on the ranch down there. Still, in 1959, he gets this notice they want to coassess. I went to the assessor's office the next morning and half of the North Fork was down there. We had a little meeting down there.

Mrs. PFOST. Will the gentleman yield?

Mr. SISK. Yes.

Mrs. PFOST. How long had Mr. Schlichting paid taxes?

Mr. WAHLBERG. He has been up there a number of years paying taxes. We all have adverse possession actually from the standpoint of the law of California. We all have title to these properties, but it is just the preposterousness of it that somebody should come along and say they own it after all those years.

Mr. SISK. I appreciate this because this is a very important part of it, and I think it is something we may want to consider very carefully in the bill with reference to any amendments that specifically clear this issue.

However, I think, frankly, this represents to me almost an attempt to grab something very valuable, and I do not think they can get away with this one certainly. If there is any possibility of it, of course, maybe the Congress had better speak very clearly in this and make certain once and for all it cannot be done.

I will be glad to yield to counsel.

Mr. WITMER. Mr. Sisk, I believe you have said what I was going to say. I was going to ask Mr. Wahlberg whether, in his view, first, the bill should pass as is; second, if it did pass as is, would it protect him; and, third, if it does not, can he supply by letter or now to the committee whatever amendment he believes is necessary to cover that situation?

Mr. WAHLBERG. I would be willing to consider it. I have not studied the bill.

Mr. WITMER. I am sure it becomes quite a technical problem on which your judgment would be very helpful to the committee.

Mr. WAHLBERG. Let's put it this way: If the Department of the Interior is not going to be able to issue any more deeds regardless of in lieu or other rights, these folks have from some of the former owners, that should inure to the benefit of private owners as well as the United States.

In other words, I think the policy should be the same. In other words, the United States is no better than the people of the United States, and, of course, we are at once the Government, but we have our private rights and I think the Government should protect us, too.

Mr. WITMER. Assuming the bill is not adequately drawn to do that job, your suggestions would be welcome.

Mr. WAHLBERG. I appreciate that.

(COMMITTEE NOTE.—The following letter was subsequently received.)

FRESNO, CALIF., *November 6, 1959.*

Re proposed legislation H.R. 9142 (public lands)

Congressman B. F. SISK,
Fresno, Calif.

DEAR MR. SISK: One of the committee counsel asked for a further expression of opinion from me relative to your bill.

My only suggestion is that your bill clearly inure to the benefit of private owners claiming under second U.S. patents.

From the Government's standpoint, these claims would remove from Government proprietorship many valuable lands under circumstances which are unwarrantable.

There are, however, many cases in which the U.S. Government patented out to private owners, properties which had to be taken back from a former patentee.

The persons claiming through the later patents, have possessed the respective properties over many years during which all taxes have been paid to the respective counties.

It would be most inequitable if the U.S. Government were not to stand behind its later patent. Therefore, I think that the U.S. Government should pay the consideration for any valid in-lieu rights involved and it is unthinkable that in more than a handful of cases, the Government had repatented the same lands without having determined that prior in lieu selections were in fact made.

Thank you for your effective attack upon a problem and the best of luck in your undertaking.

Yours very truly,

ARTHUR C. WAHLBERG,
Attorney at Law.

Mrs. PFOST. Thank you, Mr. Wahlberg.

Mr. WAHLBERG. Thank you.

Mr. TAYLOR. Madam Chairman, may I say a word in regard to that?

Mrs. PFOST. No, I am sorry.

Mr. TAYLOR. That has brought up an entirely different problem that has nothing to do with the Forest Exchange Act. We are not asking for a deed under the Forest Exchange Act. We never have. This was a debt due to Mrs. Helvey. The man didn't own the property at the time in 1941 when the judgment was obtained. It has nothing to do with the Forest Exchange Act and we are not trying to claim under that.

Mrs. PFOST. The next witness will be Mr. Nelson. Is he here?

If not, is Judge Williams here?

Is Mr. Campbell here?

Mr. CAMPBELL. Yes.

Mrs. PFOST. Mr. Campbell, do you have a prepared statement?

STATEMENT OF JOHN S. CAMPBELL

Mr. CAMPBELL. My name is John S. Campbell, and I am a writer and historical researcher. I have a letter to the Honorable Gracie Pfost, Member of Congress, Chairman of the House Subcommittee on

Public Lands, House of Representatives, Washington, D.C., dated October 31, 1959:

By virtue of the third amendment of the U.S. Constitution, the right of the people to peaceably assemble and to petition the Government for redress of grievances, I hereby present the attached petition, a declaration of sovereignty and a brief report on submerged and offshore lands. While a researcher and assistant information officer for the California Division of State Lands I discovered the State of California and the city of Long Beach to have clouded title on the submerged and offshore lands and some Long Beach harbor land.

Mrs. Frost. Just a minute, Mr. Campbell. The question we are dealing with today does not deal with submerged or overflowed lands.

Mr. Campbell. Madam Chairman, I recognize that. As I said, I had a petition which deals with sovereignty, which deals with land.

My understanding is that this is a Subcommittee on Public Lands, and it is my only opportunity to be able to present this petition of four pages with substantial information that is extremely valauble for the U.S. Government. May I present my petition?

Mrs. Frost. I am sure the question you are bringing before the committee is an important one. However, it is not the one that is under consideration today. For that reason I feel it does not have a real place in our hearings today.

If you would like to submit the petition for our study and determination as to whether or not it is pertinent to this hearing, then we will be very happy to take it under advisement and place it in the record if we find it has some value. But I do feel in view of the time element that we cannot start consideration of another question today and we must keep our remarks to the bill that is before the committee.

Mr. Campbell. Madam Chairman, I realize your viewpoint, and I would be perfectly happy to submit the report, but I would appreciate very much to be allowed to read the petition because it establishes the sovereignty of the American citizen as declared by the U.S. Supreme Court. And this is as a former land researcher, and I am sure Mr. Witmer, former head of the Bureau of Land Management, will substantiate this viewpoint.

Mrs. Frost. Mr. Campbell, I am very sorry. I do not want to be arbitrary in the situation. Please let us have your petition, if we may.

Mr. Campbell. Surely.

Mrs. Frost. If we find it is pertinent to the subject under discussion today, we certainly want it to go into the record because we are very interested in having any information possible on both sides of the question.

As I said earlier, in view of the time element, we do not feel we should go into an entirely different matter, because we have taken up the matter of overflowed lands at previous hearings in Washington affecting both the East and the West. For that reason, I feel we do not dare go into the matter at this particular time.

Mr. Campbell. As chairman of the subcommittee, may I make a citizen's request that you present these to the proper authorities within the Land Committee of Congress?

Mrs. Frost. Thank you very much. We certainly will take it under advisement.

Our next witness is Mr. Jordan M. Wank.

You may proceed.

STATEMENT OF JORDAN M. WANK, ATTORNEY AT LAW, LOS ANGELES, CALIF.

Mr. Wank. Madam Chairman and gentlemen of the committee, my name is Jordan M. Wank and I am an attorney at law presently practicing in the county of Los Angeles, State of California.

I am appearing for many of my clients who own land in the national forests throughout the State of California and also as house counsel for the Desert Land & Homesteaders Association for the purpose of opposing Congressman Sisk's proposed bill, H.R. 9142.

I would like, at this time, to express to the House Subcommittee on Public Lands some of the reasons why I feel that the proposed bill introduced by Congressman Sisk should not be proposed to the full committee.

After reading this bill, the first question that I asked myself is: What would be the effect of this bill on the owners of these lands if this bill was eventually passed by Congress in its present form? This bill would allow the United States to circumvent its laws and the laws of the many States by confiscating property owned by private individuals and corporations thereby completely disregarding the Constitution of the United States of America and the constitutions of the many States which provide that property may be taken for public purposes upon a payment of just compensation and with due process of law.

It is my opinion that it is actually unnecessary to argue the point of ownership of the lands in question as this bill indirectly admits that the United States does not own such lands and such ownership lies in private ownership. Otherwise, why does the bill provide that all persons whose claims are found to be proper should convey their lands to the United States for the sum of $1.25 per acre? If such lands truly belonged to the United States, as claimed by Representatives Pfost and Sisk, then why should this bill provide that the United States pay any sum to anybody or that anyone should convey this land to the United States if the United States is the owner? Therefore, the bill, by its own admission, answers the most basic and important question to any further discussion regarding its constitutionality, validity, or necessity.

The language in this bill is in direct conflict with the statements of Representatives Pfost and Sisk in their press release of September 23, 1959. In said press release Representative Pfost stated that in many cases the lieu selections as contemplated were never completed. Surely this would indicate that the lands in question have remained in private ownership and such lands at no time were ever owned by the United States, and said press release further states, and I quote:

> * * * that as a result, heirs or other parties in several cases have filed applications to the Bureau of Land Management for quitclaim deeds to reconvey to them the Government's title in the lands held for more than 50 years * * *.

This statement is in direct conflict with the ones previously made by Representatives Pfost and Sisk. These statements indicate that

the lieu selection on one hand was never completed and that title remained in private ownership but on the other hand, and in the same breath, state that the United States has owned these lands for the past 50 years. This is indicative of the bill itself. This bill would repeal the act of September 22, 1922, and the act of April 28, 1930, which provide that the United States would execute quitclaim deeds to the owners of land who failed to receive the lieu selections and had previously given the United States deeds to lands owned by them in the national forests under the Forest Exchange Act of 1897. However, Representative Sisk gives no reason why these statutes should be repealed and be of no force and effect.

The bill is also uncertain and ambiguous in many particulars. The following are a few of such particulars, referring to section 2(b) of the bill.

1. The bill talks about persons who conveyed land to the United States and states that these persons include the heirs and devisees of any such person, and other such person to whom he or his heirs or devisees lawfully assigned before the enactment of this act the right to a lieu selection or a conveyance, or their right to receive authority to cut and remove timber. However, this bill makes no provision for persons who have purchased this land from the persons who used this land for base land and offering the deed to the United States or from the heirs or devisees of such persons, nor does it make any provision for payments to those who have such foreclosures, quiet title actions, et cetera.

2. This bill is also uncertain in the respect that it makes no provision as to who would receive what portion of the $1.25 per acre where more than one party owns different interests in the same parcel of land, such as mineral, water, timber, and surface rights, et cetera.

I feel that if the Government had any basis of claim to these lands they surely would not have waited 54 years before exercising their rights to said claims and would not have issued quitclaim deeds back to the owners of these lands over the past 54 years.

For the foregoing reasons I propose that the subcommittee oppose the enactment of this bill.

In conclusion, I would again like to reiterate that this bill is unfair, unjust, unconstitutional, unreasonable and unnecessary, and would be a deprivation of the rights of my clients.

Mrs. PFOST. Thank you, Mr. Wank.

Mr. SISK. Madam Chairman?

Mrs. PFOST. The gentleman from California.

Mr. SISK. Off the record.

(Discussion off the record.)

Mrs. PFOST. Are there questions?

Mr. ULLMAN. You indicated you were appearing for many of your clients. This committee would be interested in knowing who you are appearing for. Would you list the clients for whom you are appearing?

Mr. WANK. I am house counsel for the Desert Land & Homesteaders Association, and there are within that association people who do own lands within the area affected by this bill. I am not at liberty to designate all of these parties. However, one of these parties is a party by the name of James Mensies.

Mr. ULLMAN. Are you also appearing officially for the Desert Land & Homesteaders Association?

Mr. WANK. Yes; I am.

Mrs. PFOST. Are there further questions?

Mr. LANDSTROM. Mr. Wank, do any of the lands to which you refer consist of desert lands or homesteads?

Mr. WANK. Many of these lands are lands affected by this bill and are also lands that are patented lands. Most of the lands that my clients are involved in are patented lands.

Mr. LANDSTROM. At the bottom of the first page of your statement you ask the question:

> Why does the bill provide that all persons whose claims are found to be proper should convey their lands to the United States for the sum of $1.25 per acre?

Could you refer to any part of the bill which provides for any conveyance by any parties to the United States?

Mr. WANK. On page 2 of the bill, at the top, it says:

> Regarding a conveyance of his land as provided by law, and shall be paid to each such person * * *

the sum of $1.25 per acre for lands conveyed by him to the United States.

Mr. LANDSTROM. Does that not refer to lands that have already been conveyed by the parties to the United States prior to March 3, 1905?

Mr. WANK. If it does, then the bill is more ambiguous than I anticipated.

Mr. LANDSTROM. Careful reading would indicate the lands referred to were conveyed over 50 years ago by parties to the United States, and there is no provision of which I am aware by which anyone would convey any lands to the United States.

Mr. WANK. Of course, you are making the assumption that the lands are in the Government's ownership at this time. Maybe that is the difference in the understanding.

Mr. LANDSTROM. That is all, Madam Chairman.

Mr. SISK. Mr. Wank, I want to ask about the paragraph at the bottom of page 3, where you say:

> I feel that if the Government had any basis of claim to these lands they surely would not have waited 54 years before exercising their rights to said claims and would not have issued quitclaim deeds back to the owners of these lands over the past 54 years.

You have been here all day; have you not?

Mr. WANK. Yes; I have.

Mr. SISK. And you have heard generally the discussion?

Mr. WANK. Yes.

Mr. SISK. I am curious, in view of the fact that actually the lands this bill deals with are primarily lands where the title does rest in the United States—regardless of such rights to the base lands that have been discussed here, which I realize becomes a legal question, I am wondering if it ever occurred to you where the people were in the past 60 years until, let us say, very recently. I think it is a two-edged sword. In other words, the Government had the title as it has today. Where have the people been?

Mr. WANK. You say the Government has had the title, but evidently the court decision, as pointed out in previous testimony, indicated the Government has not had the title. It might have been a blur on the

title because of the deed, but in view of the cases and the testimony brought out, are you quite sure that the Government did have the title?

Mr. SISK. In my mind, yes. I have no particular question in my mind on that. I realize there is a difference of opinion.

Let me ask you, where were the people who had these so-called rights, if such rights they did have, from 1922 to 1927 when the Congress said, "We will give you 5 years in which to make your lieu selections and file such claims as you have"? Where were your people if they had any interest?

Mr. WANK. I was not even born then. Seriously, I really don't know. I have no knowledge on the situation and I can't really answer the question.

Mr. SISK. I merely bring this up to show, I think, the weight of evidence is exactly in the opposite direction to what you propose to state here. The Federal Government's position has been one of sound management of these areas over this whole time, without any particular question of ownership involved.

All of a sudden here within the past 5 or 6 years we find a lot, I might say very frankly, of very new corporations being formed with apparently some rather exaggerated ideas.

I can appreciate, of course, the increased values of land, and so on, causing some of that, but I merely bring that up to state there are two ways of looking at it.

Mr. WANK. However, it is also my understanding that many of these lands have not been lying dormant for all this time and there actually have been work done on these lands.

You say for 54 years these lands have been lying dormant and nothing has been done. That might be true in some instances. I am sure it is not true in all instances.

Mr. SISK. Of course, I did not mean the lands lay dormant.

Mr. WANK. In other words, nothing has been done on these lands, and why haven't the people done anything in all of this time? But that is not true in all cases. On top of the Sierras it may be true they haven't, but there are more valuable lands involved in this. I am sure the people on these lands in the past years have improved these lands. I do not go along with your argument, Mr. Sisk.

Mr. SISK. That is all.

Mrs. PFOST. Mr. Witmer.

Mr. WITMER. Mr. Wank, what is the Desert Land and Homesteaders Association?

Mr. WANK. It is an association of persons. It is a nonprofit organization of persons occupying lands in various parts of California and owning mineral lands and deposits.

Mr. WITMER. Is it incorporated?

Mr. WANK. Yes, it is.

Mr. WITMER. Who are the officers of the corporation?

Mr. WANK. The officers of the corporation are as follows, although I do feel this is not material.

Mr. WITMER. I think it is important when an attorney comes here representing a client and saying he is house counsel to know what the organization is and who its officers are.

Mr. WANK. I will be glad to give the information but I do not feel it is material.

The president is Clifford Ely, the vice president is William Darby, the secretary-treasurer is Edward Smith, and the assistant secretary-treasurer is James Mensies.

Mr. WITMER. And counsel is Jordan M. Wank?

Mr. WANK. That is correct.

Mr. WITMER. Thank you, sir.

Following Mr. Sisk's question with respect to your paragraph that, if the Government had any basis of claim to these lands it would not have waited 54 years before exercising its rights, how would you, speaking professionally, have expected it to exercise these rights, other than in the way it did?

Mr. WANK. If the Government believed they had full title to these rights, why didn't they bring quitclaim deeds against these?

Mr. WITMER. I do not quite know how they would bring a quitclaim deed.

Mr. WANK. I am sorry.

Mr. WITMER. The title was on record in the United States, was it not?

Mr. WANK. That is a question here, whether it was or not.

Mr. WITMER. There was a recorded deed to the United States, was there not?

Mr. WANK. Yes, there was.

Mr. WITMER. And the lands were within the boundaries of a national forest, were they not?

Mr. WANK. In most cases, that is true.

Mr. WITMER. They were policed by the Forest Service, were they not?

Mr. WANK. That I have no knowledge of.

Mr. WITMER. The Forest Service exercised control over them, did it not?

Mr. WANK. That I also have no knowledge of.

Mr. WITMER. The Forest Service posted them, issued regulations with respect to grazing in them, issued regulations with respect to the use of fires, issued regulations with respect to camping, did it not?

Mr. WANK. If this were all true, why did not this procedure stop after——

Mr. WITMER. Mr. Wank, I am asking the questions.

Mr. Wank, that being so, and by that I mean your having no knowledge of whether it is so or not, how can you say that the Government did wait 54 years without doing anything?

Mr. WANK. If they really owned this land, why didn't they do something before this time to protect that right?

Mr. WITMER. Well, I own a piece of property and I am not doing a blessed thing to protect it. I would guess that three quarters of the people in this room own pieces of property, and there is no obligation on them, no affirmative obligation, to go out and do something.

Mr. WANK. My clients own property and want to protect that right.

Mr. WITMER. That is fine if your clients want to operate that way, but I don't believe most of us do.

Mr. Wank, beyond that, recorded title has been in the United States for something like upward of 50 or 60 years. Does the word "laches" mean anything to you?

Mr. WANK. I am familiar with the term.

Mr. WITMER. Thank you.

Thank you, Madam Chairman.

Mrs. PFOST. Are there further questions of Mr. Wank?

Thank you very much.

The committee wishes to recall Mr. Hochmuth.

FURTHER STATEMENT OF HAROLD R. HOCHMUTH, LANDS STAFF OFFICER, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. HOCHMUTH. Very well, Madam Chairman.

Mrs. PFOST. Mr. Witmer.

Mr. WITMER. In your testimony this morning, Mr. Hochmuth, you spoke of certain lands with respect to which lieu selections had been completed. In later testimony, other witnesses spoke of certain claims, which we can speak of generally as being the Helvey claims, based on quiet title action.

Did those actions, to your knowledge, involve any lands in which lieu selections had been consummated?

Mr. HOCHMUTH. Mr. Witmer, I came here having made certain status records on certain lands in California, and I note on page 4 of Mr. Sisk's statement, in which he described certain lands he states, "Among the specific Government tracts that are included in this chain of documents are the following," and I presume he is talking about the quiet title chain preceding that. If that be true, I can give you the status as to the title on sections 16 and 36 in township 14 south, range 28 east, Mount Diablo meridian.

Let's take the first one, the south half of the southwest quarter.

The west half of section 16, which would include that tract, was reconveyed to the United States August 24, 1900, by F. A. Hyde and lieu selection 3271, Oregon, selected and patented April 1, 1902, and the land that was selected in lieu was in section 13, township 14 south, range 45 east, Oregon. So the south half of the southwest quarter of section 16, the title is in the United States.

Let's take the northeast quarter of the southwest quarter of section 36 in township 14 south, range 28 east, the same tract Mr. Sisk referred to in his statement.

The north half of the southwest quarter, which would include this 40 acres, was reconveyed to the United States May 24, 1900, by Richard M. Lyman and a lieu selection 2469, Nebraska, was made in section 19, township 23 north, range 27 west, and was patented March 21. 1903. The title is in the United States.

Mr. ULLMAN. What you are saying, then, in many of these instances the lieu selections actually were made, and there can be no question in the world about the validity of the United States title?

Mr. HOCHMUTH. That is correct. Even though there may have been quiet title actions going on in the State of California, there is no question under the law that a lieu selection was completed which made

an acceptance of the reconveyed title, and the title is in the United States as to these tracts. And there are a number of others, too, but this is specific as to this quiet title action.

Mr. WITMER. In your judgment, then, the effect of the quiet title action as against the United States would be just zero?

Mr. HOCHMUTH. No more than that.

Mr. WITMER. In your judgment, would the effect of coassessment under the laws of the State of California for 5 years have any effect on the title of the United States?

Mr. HOCHMUTH. No, sir.

Mr. WITMER. In your judgment, in either of those cases or in any other method which can be thought of within the realms of probability, would the party who was coassessed or who was the winner of the quiet title action have anything to convey to anybody else?

Mr. HOCHMUTH. It would convey all right, title, and interest he had, but he would have nothing.

Mr. WITMER. In other words, he would quitclaim a blank piece of paper?

Mr. HOCHMUTH. This is true.

I would like to point out one other thing, Mr. Witmer, if I might. There is no question in our mind as to where the title rests. This being as it is, this could cause no difficulty for the United States until, let us say, the Forest Service had decided to exchange these lands or do something in the transfer of its title. At that time I think they would run into difficulty because of the cloud that may be placed on the title in the attempt of the United States to transfer title. But so long as the United States manages it as national forest land per se——

Mr. WITMER. It might have one other conceivable effect, and that is a party who had paid taxes for 5 or 10 or 15 or 20 years might appear before this committee, and the committee out of the goodness and kindness of its heart at some future date might enable him to get something by legislative gift and nothing else. I know you and I sitting here find that hard to conceive, but it is a possibility, is it not?

You need not answer that question.

Thank you, Madam Chairman.

Mrs. PFOST. Mr. Landstrom?

Mr. LANDSTROM. Along the same line, Mr. Hochmuth, which Mr. Witmer just asked about, would not the existence of the title instruments we have been discussing today affecting certain lands possessed by the Forest Service have some adverse bearing upon mining claims that might be held, that is, patented mining claims that might be held upon the identical property or right-of-way that might be taken by the county or by the State government or upon material sites that might be taken or used by the State of California or by the county, or upon title to the materials themselves, including timber or gravel, stone or other materials, while being removed or after having been removed from the property?

Mr. HOCHMUTH. As to the mining law—and I perhaps will leave it to Mr. Florance or other legal experts—I do not think the mining law would be applicable to these tracts because they are reconveyed lands. I do not know as there has been any restoration per se, but certainly the Materials Act and amendments to the general mining law which places certain common materials under the Materials Act rather than the mining law, yes.

Mrs. Pfost. Are there further questions of Mr. Hochmuth?

Thank you very much again.

Mr. Sisk. Madam Chairman, I have some statements.

Mrs. Pfost. The gentleman is recognized for the insertion of statements in the record.

Mr. Sisk. There has been a request by G. W. Philpott, chairman of the legislative committee of the Fresno County Sportsmen's Club, Ltd., to testify, but in the interest of saving time he has submitted a statement, and I ask unanimous consent it be made a part of the record in support of H.R. 9142.

Mrs. Pfost. You have heard the request. Is there objection?

Hearing none, it is so ordered.

(The statement follows:)

Fresno County Sportsmen's Club, Ltd.,
Fresno, Calif., November 2, 1959.

Hon. Gracie Pfost,
Chairman, House Subcommittee on Public Lands,
Post Office Building, Fresno, Calif.

Madam Chairman: My name is G. W. (Phil) Philpott, 1278 Arthur, Fresno, Calif., and I am chairman of the legislative committee of the Fresno County Sportsmen's Club. I am also a member of the Outdoor Writers Association of America.

At the October 15, 1959, meeting of the board of directors of the aforementioned sportsmen's club it was voted unanimously to actively support H.R. 9142 by Congressman B. F. Sisk, which provides, "for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes."

In other words the bill would return certain lands of doubtful or involved private ownership to the national forests or national parks and remove those lands from exploitation by private interest acquiring legal title through various means.

The threat of public land grab and the loss of public land is of grave concern to the sportsmen and a detriment to all the people. Public lands are the last of the great open spaces for free public enjoyment. More than 2 million people go fishing and hunting in California and, in addition, perhaps twice that number, or more, seek other outdoor recreation, including camping, hiking, horseback riding, boating, water skiing, snow skiing, swimming, organization camping, picnicking, mountain climbing, outdoor photography, and nature study, and practically all this activity is enjoyed on our own land, the public lands. In fact, it couldn't be done to any extent except on public lands.

In a publication dated October 1, 1959, by the University of California Agricultural Experiment Station, entitled "Conserving Wildland Resources Through Research," it is stated, "Recreationists, including fishermen and hunters, are spending over 70 million days per year in the California wildlands, or roughly 5 days per year per person. The estimated annual expenditure of more than $1.5 billion on recreation emphasizes the economic significance of outdoor leisure in the State."

To emphasize the importance of our public lands to the people, further quotations are borrowed from this University of California publication:

"Recreation is exploding across California wild lands in a way that couldn't have been foreseen a few years ago. Recreational activities are accelerating at a far greater rate than any other wild land use. And in some wild land areas, dollar returns for recreational use are exceeding any previous commodity production values.

"By the millions every year, Californians 'head for the hills' seeking a new and refreshing environment and a change from the chores of everyday life. Each new outdoor development is nearly overwhelmed with boaters, campers, etc., and even wilderness areas are getting crowded.

"It all adds up to a booming business affecting the economy in every part of the State and a flood of new problems for those who manage and set policies for wild land development."

The U.S. Forest Service has informed the writer that it now manages the forest for recreation, next in importance to watershed maintenance, the No. 1 use.

In 1940 each Californian had a 2.88-acre share of the national forest within the State. With the increasing population, this has dwindled to less than one acre and a half at present and is calculated to be not over one-half acre per person within the next 40 years.

These alarming statistics are some of the reasons sportsmen are concerned over the future of our public lands and why they favor any legislation to safeguard them.

Another subject of extreme importance that H.R. 9142 brought to attention is the fact that the U.S. Government lacks adequate information to determine land titles. Records indicate that the lands referred to in H.R. 9142 are in the name of the United States whereas in fact they are not.

The board of directors of our club voted to suggest that your committee recommend a remedy to this situation and any others like it.

Respectfully submitted.

G. W. (PHIL) PHILPOTT,
Chairman, Legislative Committee.

Mr. SISK. I am in receipt of a letter from Edgar F. Norby, supervisor, Fifth District, Madera County, Calif., in support of H.R. 9142. I ask unanimous consent that it be made a part of the record.

I also am in receipt of a letter from Frederick H. Ward, in support of the principles of the legislation, and I would ask unanimous consent it be made a part of the record.

Mrs. PFOST. You have heard the request. Is there objection?

Hearing none, it is so ordered.

(The documents follow:)

NOVEMBER 1, 1959.

Hon. B. F. SISK,
2340 Tulare Street,
Fresno, Calif.

DEAR CONGRESSMAN SISK: I am submitting this letter for your hearing on H.R. 9142 being held in Fresno, Calif., on November 2, 1959.

I want to endorse H.R. 9142, however, if the bill does not provide adequate protection for lands in the hands of private citizens as well as the United States, I strongly urge that the bill have appropriate amendments to give that coverage.

There are several privately owned pieces of property within Madera County, most of which lie within my supervisorial district, over which a question as to clear title has arisen due to recent claims of the Ranch Development Corp. Title insurance policies in the hands of present owners of these parcels do not show any matters affecting title corresponding to claims of the Ranch Development Corp. Therefore it can be reasonably assumed that the present owners of these properties had no way of knowing that such a cloud on their titles might exist, and that they acquired their properties in good faith. It is apparent that the claims of the Ranch Development Corp. to these privately owned parcels are the same as those affecting U.S.-owned property, stemming from some or all of those certain legislations referred to in H.R. 9142.

As this matter is of grave concern to many people in the mountain area of Madera County, I trust you will give it your utmost consideration. If I can be of any assistance to you or the committee on this subject, please consider my time at your disposal.

Thank you for your timely action on this matter.

Very truly yours,

EDGAR F. NORBY,
Supervisor, Fifth District,
Madera County, Calif.

LA CANADA, CALIF., *October 30, 1959.*

PUBLIC LAND SUBCOMMITTEE OF
INTERIOR AND INSULAR AFFAIRS COMMITTEE,
House of Representatives.

GENTLEMEN: I read in the press today of the heading of your committee Monday on the Sisk bill. Since I cannot leave my work to attend, I write you instead.

We are no one of consequence, just a family that loves and needs the out-of-doors, and who spends most of our summer vacations in the Sequoia National

Park. We urge your committee to take whatever action is necessary to preserve this area, while at the same time making proper compensation to owners.

With the rapid urbanization of California, it is becoming increasingly difficult for residents of southern California to be able to get close to nature, away from the maddening crowd.

Legitimate property rights should of course be respected. But perhaps this need not be done on the literal "pound of flesh"—or, million-board-feet basis originally contemplated.

I am certain hundreds of thousands of American families would echo this feeling if they understood the issue, and could find the time or words to do so.

Your thoughtful and favorable consideration of the public interest and concern over this matter will be greatly appreciated.

Respectfully yours,

FREDERICK H. WARD.

Mrs. PFOST. We also have a letter from Maynard B. Henry, attorney at law, addressed to Mr. Sisk; letter and related correspondence from J. Davis Bridges, Jr., attorney at law; and a letter from James I. Menzies, assistant secretary of the Desert Land & Homesteaders Association. Without objection, these will be made a part of the record. Hearing none, it is so ordered.

(The documents follow:)

LOS ANGELES, CALIF., *October 20, 1959.*

Re H.R. 9142.

Hon. B. F. SISK,
California State Representative,
Fresno, Calif.

DEAR SIRS In response to your letter of October 1, answering my correspondence of October 1, I called your office today and talked with your executive assistant. After considerable discussion he advised that I write this letter to you in detail concerning my clients and their position relative to the pending bill.

Mr. and Mrs. Frank A. Pachmayr of Los Angeles, during the year 1957, purchased 162.487 acres of forest lieu selection rights for a total consideration of $48,000, and at approximately the same time purchased lieu selection scrip representing 4.99 acres at a comparable cost per acre. The scrip was sold to my clients upon representations that it represented an obligation of the U.S. Government to allow them to select and have patented to them unappropriated land in the public domain, nonmineral in character. After purchasing the selection rights and having the same recorded under the 1955 Scrip Recordation Act, it was discovered that this scrip was not acceptable in the State of Oregon for placing upon timberland as there was no land classified and available.

Some time ago my clients, as well as other holders of similar scrip, were requested to make demand upon the U.S. Government for return of the base lands conveyed years ago to the Government. These demands were so filed without actually knowing the nature or location of the said base lands.

Approximately 2½ months ago the 162 acres of lieu selection rights were filed with the Los Angeles office of the Bureau of Land Management for the purpose of selecting certain desert lands. The rights were forwarded to Washington and the latest information we have is that they are being held up pending the outcome of your present legislation.

I would like to clarify my clients' position at the present time. They are inclined to forgo any rights to claim reconveyance of lands conveyed to the Government for the issuance of these lieu rights and strongly feel that the Government should not be required to reconvey lands in Government parks and national forests; however, they feel very strongly that they have in good faith purchased these rights, that they represent an obligation of the U.S. Government and that their selection of lieu lands should be honored and patented to them.

After reading the notice of a public hearing set for November 2 at Fresno pertaining to H.R. 9142, and after obtaining a copy of the bill and reading the same, I am rather perturbed. The bill, as I read it, is very broad and the provisions would seem to preclude the exercise of a selection right, in that when such a selection were claimed it would then fall into the purview of the proposed statute as a claim against the United States which would be paid for at the rate of $1.25 per acre. It appears to me that the provisions of this bill, if they are

so applicable, are too broad and would cause serious financial loss, not only to my clients, but to many others who have purchased scrip rights for substantial amounts.

I would appreciate it if the foregoing could be considered by you and your committee, and that this letter be introduced into the hearing to be held on November 2. I apologize that I cannot appear in person due to contested litigation in which I will be engaged.

Very truly yours,

MAYNARD B. HENRY,
Attorney at Law.

HOLLYWOOD, CALIF., *October 28, 1959.*

HONORABLE SIR: I am writing to you in regard to bill H.R. 9142 which was introduced on September 8, 1959, by Congressman B. F. Sisk of Fresno County, Calif. My clients and I are appealing to you to use your power and influence in opposition to this unfair bill.

I represent many corporations and individuals who own land in the State of California and whose titles to their lands are blurred by deeds which were given to the United States under the Lieu Selection Act when these lands were used as base lands and as these selections were never completed, no title to these lands passed to the United States. My clients and many other people, having perfect chains of title on their lands, are being deprived of the quitclaim deeds which they are entitled to from the United States under section 6 of the act of April 20, 1930 (46 Stat. 257; 43 U.S.C. 872).

Many of my clients have made applications to the Bureau of Land Management for these quitclaim deeds as provided by law in order to remove the clouds on their titles caused by the issuance of the deeds to the United States under the Lieu Selection Act. After lengthy correspondence with the Bureau of Land Management, which runs into 2 to 3 years in some instances, they promised to issue such quitclaim deeds and have issued a few of such quitclaim deeds to some of my clients and other individuals with whom I am acquainted. However, many of my clients and other individuals with whom I am acquainted have been waiting as long as 2 years and have received no action whatsoever in regard to the issuance of their quitclaim deeds from the Bureau of Land Management. I have received numerous telephone calls from many people and from many of my clients who have informed me that the Bureau of Land Management notified them that as of September 19, 1959, they cannot issue any further quitclaim deeds because of a bill being introduced by Congressman B. F. Sisk and which we are informed hearings are to be held in Fresno on November 2, 1959, which said hearings my clients and I plan to attend.

Congressman Sisk and Congresswoman Gracie Pfost, chairman of the House Subcommittee on Public Lands, in their press release of September 23, 1959, refer to these lands as Government lands and title to these lands held by the Government for over 50 years and said lands are situated in the boundaries of our national forests. These are not Government lands even though they are in the boundaries of the national forests and were used as base lands and deeded to the United States of America under the Lieu Selection Act. The lands in question are privately owned lands and should be treated as such. Congressman Sisk and Congresswoman Pfost admit that these lands were used as base lands under the act of June 4, 1897 (30 Stat. 11, 36), as amended and supplemented by several acts, including the act of March 3, 1905 (33 Stat. 1264), and that the lieu selections were never completed, but what Congressman Sisk and Congresswoman Pfost failed to take into consideration is the fact that where the lieu selections were never completed, title did not pass from the grantor to the United States of America even though the grantor deeded said lands to the United States of America. Therefore, these lands are still privately owned lands and the owners of these lands should be entitled to sell them to whom they please and if the Government wishes to purchase them from the owners the Government should pay the market value of the land. Below I cite a few cases where the State, Federal, and Supreme Courts uphold these facts:

State v. *Hyde* (169 Pacific, pp. 757, 774, 775, 777, 778, 779): State held that the land offered for base in lieu selection to the United States of America passed no title until the General Land Office accepted the selection and where the lieu selection was never completed, title did not pass from the grantor to the United States of America.

U.S.A. v. *McClure* (174 Fed. Ct. 510) : Squarely held by Federal Court that title does not pass to the United States of America until the deed is accepted by the General Land Office and the lieu selection completed. Case further held that this offer could be withdrawn at any time by the grantor.

Roughton v. *Knight* (219 U.S. Rept., p. 537) : Supreme Court held that the party who conveys land to the United States of America and deposits deed pursuant to Federal Exchange Act does not lose title to the various land until they are accepted by the United States of America and the lieu selection completed.

Congressman Sisk and Congresswoman Pfost also state in said press release that many of these lands are valued at hundreds of thousands of dollars, yet they state that the owners of these lands should only be entitled to $1.25 per acre with attorney's or agent's fees to be limited to 10 percent of the payment made by the Government to the owners.

If this bill is passed my clients and many other people who own land in the national forests stand to lose many thousands of dollars which they have invested in these lands. I feel that the owners of these lands should not be forced to sell their land worth many hundreds of dollars per acre for $1.25 per acre to the Government.

Forty-eight percent of our State, at the present time, is owned by the Federal Government and does not pay one penny in tax revenue to the State or counties where the lands are located and the financial experts in Sacramento say that the taxpayers in California are faced with a tax crisis. Yet Congressman Sisk and Congresswoman Pfost want to take more land out of private ownership and put it under Federal control which would deprive the counties in which these lands are located of the tax revenue to which they are entitled and to many millions of dollars of additional revenue which would be forthcoming from future development of these lands. It is my opinion that the biggest tax loss to the State of California is the 48 percent of U.S. lands laying dormant and not raising a cent in tax revenue.

Some of my clients and other indivduals with whom I am acquainted who own land in the national forests are contemplating development of their lands, such as fine motels, lodges, etc., which would bring in additional tax revenue to the State and counties in which their lands are located and which said motels and lodges are badly needed to accommodate the many hundreds of thousands of tourists who visit our national forests and parks each year. Yet as badly as these accommodations are needed they are unable to acquire building loans for such purposes because of the cloud on their titles created by the deed given many years ago to the United States of America and as to this date they have been unable to acquire a quitclaim deed back from the Bureau of Land Management.

The title companies will not insure the titles to these lands until a quitclaim deed is received back from the United States of America and the loan companies will not make building loans unless the title companies insure the titles. My clients and I feel that the introduction of Congressman Sisk's bill, H.R. 9142, should not in any way influence or stop the Bureau of Land Management from issuing such quitclaim deeds to remove the cloud created by the deed to the United States of America and I feel that the Brueau of Land Management has not the right or authority to refuse to issue quitclaim deeds back to the owners of these lands as provided by law.

It is my understanding that when a bill has been introduced it does not become law until passed by Congress and up until such time as it has been passed by Congress, the Bureau of Land Management must abide by the present law now in effect.

Enclosed please find copy of Congressman Sisk's bill, H.R. 9142; a copy of my letter to the Bureau of Land Management, dated September 19, 1959; a copy of the Bureau of Land Management's very short and vague reply, dated September 6, 1959, to my said letter; a copy of the press release of Congressman Sisk and Congresswoman Pfost, dated September 23, 1959.

Your help and support is greatly needed by the many Californians who will suffer a tremendous financial loss unless Congressman Sisk's bill, H.R. 9142, is defeated. Your assistance will be greatly appreciated by all concerned. I would be pleased to hear from you in respect to your views and comments on the matters contained herein.

Respectfully yours,

J. Davis Bridges, Jr., *Attorney at Law*

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Washington, D.C., October 6, 1959.

Mr. J. DAVIS BRIDGES, Jr.,
Attorney at Law,
8228 Sunset Boulevard,
Hollywood 46, Calif.

DEAR MR. BRIDGES: Your letter of September 19 concerns the suspension of activities under section 6 of the act of April 20, 1930 (46 Stat. 257; 43 U.S.C. 872). H.R. 9142 was introduced September 8, 1959, by Mr. Sisk, and it is standard Bureau practice to suspend action where legislation is introduced and has an effect on existing operations.

There is enclosed for your information a copy of H.R. 9142 and a press release on the forthcoming hearings in California.

Sincerely yours,

IRVING SENZEL.
(For the Director).

HOLLYWOOD, CALIF., *September 19, 1959.*

DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Washington, D.C.
(Attention of Fred Seaton, Secretary of Interior.)

DEAR MR. SEATON: My client, the Ranch Development Corp., has informed me that Mr. S. C. Nichols of the Bureau of Land Management has informed them that it will be impossible for the Bureau of Land Management to issue quitclaim deeds back to the Ranch Development Corp. and to anyone else under section 6 of the act of April 20, 1930 (46 Stat. 257; 43 U.S.C. 872). The reason that Mr. Nichols gave is that Congressman B. F. Sisk, of Fresno, Calif., is contemplating introducing a bill, H.R. 9142, and will hold hearing in California in the near future. If this is true, then my client and many more people whom I represent whose titles to their lands are clouded by the deeds which were issued to the U.S. Government under the Lieu Selection Act of June 4, 1897 (30 Stat. 36), are due to suffer tremendous financial loss and expensive litigation due to many lawsuits which are threatened against them at the present time by purchasers who threaten to sue for specific performance.

I feel that the Bureau of Land Management should at least issue the deeds that they have already promised to do in various cases with my clients so that they may be able to clear the clouds on their titles and get insurance on same. Many of the properties owned by my clients and clouded by the deed to the United States of America are in escrow, and the escrows cannot be closed until the deed from the United States of America is recorded.

I do not know what the contents of Congressman Sisk's bill are, or why it is purposed, and if you would be kind enough to send me a copy of it, it would be greatly appreciated. However, I do think that under the circumstances, the deeds that were promised by the Bureau of Land Management to my clients, who own various properties in California, before Congressman Sisk's bill was ever introduced or even heard of, should be forthcoming. Some of these deeds were promised by the Bureau of Land Management as far back as 1940. I would be very glad to supply you with the legal descriptions and photostatic copies of letters from the Bureau of Land Management to my clients stating these facts.

I am quite sure that the Ranch Development Corp. and my other clients would not have sold their properties and guaranteed title insurance unless they were sure of receiving the deed from the United States of America. In each instance, my clients have had the records examined at the local Bureau of Land Management's offices in California and have written to the Bureau of Land Management in Washington, D.C., to confirm their findings. I have complete files on various properties with correspondence from the Bureau of Land Management to my clients signed by the following employees; Mr. Hancock, Mr. Hillman, and Mr. Nichols, and others, in which they have stated that they will issue quitclaim grant deeds back on various parcels of property that the lieu selections were not completed on.

I would appreciate you giving this your immediate attention and consideration and to do what you can to have these deeds issued so that my clients will not be forced to spend any more money in legal actions.

Respectfully yours,

J. DAVIS BRIDGES, Jr., *Attorney at Law.*

DESERT LAND & HOMESTEADERS ASSOCIATION,
Hollywood, Calif., October 31, 1959.

HONORABLE SIR: The members of the Desert Land & Homesteaders Association and I wish to bring to your attention a bill which was introduced by Congressman B. F. Sisk, of Fresno County, Calif., on September 8, 1959, being bill H.R. 9142. We feel this is an unfair and unnecessary bill and a waste of the taxpayers money. We appeal to you to investigate this bill and join with us in our fight to defeat it.

In a press release dated September 23, 1959, Representative Gracie Pfost, Democrat, from Idaho, chairman of the House Subcommittee on Public Lands, states that Congressman Sisk's bill was to provide for the settlement of claims arising from conveyance of lands to the United States of America. Said lands were used as base lands under the Forest Exchange Act of June 4, 1897 (30 Stat. 11, 36 Stat.) as amended and supplemented by several acts including the act of March 3, 1905 (Stat. 1264). Representative Pfost also speaks about different people filing applications to the Bureau of Land Management for quitclaim deeds to reconvey to them the Government's title to these lands which she claims were held by the Government for more than 50 years. Evidently Representative Pfost and Congressman Sisk are not familiar, or did not bother to check, with the many court decisions of the State, Federal, and supreme courts which have stated that the party who conveyed lands to the United States of America and deposited said deed did not lose title to the base lands until the lieu selection lands were granted to him; therefore, where the lieu selections were not completed, title to the base lands did not pass to the United States of America. Therefore, the lands involved are not Government owned or public lands—they are lands held in private ownership and whose title is clouded by the deed given many years ago by the grantor to the United States of America.

Congressman Sisk's bill also states that he wants to repeal the act of September 22, 1922 (42 Stat. 1017, 16 U.S.C. 483), which Congress passed along with section 6 of the act of April 28, 1930 (46 Stat. 257, 43 U.S.C. 872), which enabled the owners of these lands to submit application to the Bureau of Land Management for a quitclaim deed which would remove the blur on the title caused by the deed given to the United States of America under the Forest Exchange Act and where the lieu selections were not completed.

I, and many thousands of the members of the association feel that bill H.R. 9142 is:

1. *Unconstitutional.*—The U.S. Constitution states that private land shall not be taken from anyone for public purposes without the payment of just compensation to the individual. The constitution of the State provides likewise.

2. *Confiscation.*—The passing of Congressman Sisk's bill, forcing the owners of these lands to accept $1.25 per acre for them, is outright confiscation. It is certainly unfair to the owners of these lands to have to spend many thousands of dollars fighting the United States of America in order to receive just compensation for their lands. Representative Pfost states in her press release that these lands are worth many hundreds of thousands of dollars, yet they want the owners of these lands to accept $1.25 per acre for them.

It is the opinion of our association that if the Government needs these lands for any specific purpose they could condemn these lands by eminent domain proceedings and pay the owners a fair market value for the lands.

The counties in which these lands are located have lost thousands of dollars in taxes due to the negligence of the Bureau of Land Management and their refusal in some instances to issue a quitclaim deed back to the owners of these base lands, as provided by law. Therefore, in many counties vast amounts of acreage are not on the tax rolls, even though they are privately owned lands, and they have escaped taxation for many years because they appear on the tax assessor's records as being vested in the United States of America.

It is not the fault of the owners of these lands that the United States of America failed to act in accepting the proposed exchanges under the Forest Exchange Act, and we feel that the Government has had plenty of time since 1905, when this act was repealed, to base any claim they may have had upon these lands. Now, 54 years later, the Government claims ownership of these lands. If the Government did own these lands, I am quite sure that Congress would not have passed the act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 433), and the act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872), which provided that the Government would execute quitclaim deeds back to the owners of these lands. Over a period of years, they have issued a good number of these deeds to the owners. Now, sud-

denly, Congressman Sisk, in his press release of September 23, 1959, charges "raiding of Sierra forest lands by individuals and companies who are trying to acquire title to these lands through a quirk in the law." I do not know what "quirk in the law" Congressman Sisk is referring to, unless it is to the laws passed by Congress in 1922 and 1930, and I am quite certain Congress would not have passed such a law if they considered it to be a "quirk."

Many members of the Desert Land & Homesteaders' Association who own land in the national forests have applied to the Bureau of Land Management for quitclaim deeds under section 6 of the act of April 20, 1930 (46 Stat. 257; 43 U.S.C. 872), and have waited many years for such deeds, and in some instances have been promised these deeds, but suddenly they are notified the Bureau of Land Management is unable to issue quitclaim deeds as provided by law due to the introduction of this bill. I am at a loss to understand why this should stop the Bureau of Land Management from issuing these quitclaim deeds, when the law states they should do so. The introduction of this bill should have no bearing on this whatsoever, because until this bill is passed by Congress it does not become law. We feel that there should be a full investigation made of the Bureau of Land Management's arbitrary action in this matter. We urge you to look into this matter thoroughly and give it your closest attention. We will look forward to hearing from you in regard to your comments which may lead to a solution to this situation.

Respectfully yours,

DESERT LAND & HOMESTEADERS' ASSOCIATION,
By JAMES I. MENZIES, *Assistant Secretary.*

Mr. PROST. The Chair would like to thank the audience for its patience and cooperation with us, and particularly those who took their time to make the arrangements for the committee hearing. Our stay here has been most pleasant. Our thanks to the school district for the use of the building, and a particular word of appreciation to the witnesses who cooperated in keeping their remarks brief.

I wish we might have been able to spend 2 or 3 days on this vital question right here in Fresno, but the hearings will resume in Washington at some later date. At that time we will take additional testimony.

The record will be kept open for approximately 10 days for the filing of additional statements from those of you who may not have had an opportunity to file statements at this time.

Again thank you very much for your diligence, your cooperation, and your patience.

The Chair recognizes the gentleman from California, Mr. Sisk.

Mr. SISK. Madam Chairman, on behalf of the people that I have the honor to represent and on behalf of the people of Fresno, and particularly all of us who are concerned with this great mountain area here, I want to express my appreciation and their appreciation to you personally for the sacrifice you have made in taking time out from your district to come here to Fresno, and also to my colleague and friend from Oregon, Al Ullman. I appreciate it. And my thanks to the staff for the time you have taken. I am sure all of the people in our district are deeply appreciative of this effort to determine the facts in this matter in the hopes we may resolve the difficulty.

Mrs. PROST. Thank you very much, Congressman Sisk. It is a real pleasure to work with you in the House.

The committee is adjourned.

(Whereupon, at 4:35 p.m., the committee was adjourned.)

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LEGISLATIVE HISTORY

Public Law 86-596
H. R. 9142

TABLE OF CONTENTS

INDEX AND SUMMARY OF H. R. 9142

Sep. 8, 1959	Rep. Sisk introduced H. R. 9142 which was referred to the House Interior and Insular Affairs Committee. Print of bill.
Mar. 14, 1960	House subcommittee voted to report H. R. 9142 to the full committee.
Mar. 16, 1960	House committee voted to report (but did not actually report) H. R. 9142.
Mar. 29, 1960	House committee reported H. R. 9142 with amendment. H. Report No. 1431. Print of bill and report.
Apr. 4, 1960	House passed H. R. 9142 as reported.
Apr. 6, 1960	H. R. 9142 was referred to the Senate Interior and Insular Affairs Committee. Print of bill as referred.
June 16, 1960	Senate subcommittee approved for full committee consideration.
June 21, 1960	Senate committee reported H. R. 9142 without amendment. S. Report No. 1639. Print of bill and report.
June 28, 1960	Senate passed H. R. 9142 without amendment.
July 6, 1960	Approved: Public Law 86-596.

DIGEST OF PUBLIC LAW 86-596

PAYMENT OF CLAIMS FOR LAND CONVEYED TO U. S. Requires the Secretary of the Interior to certify to the General Accounting Office claims of persons who conveyed lands to the United States as a basis for lieu selections under the Act of June 4, 1897, as amended, and supplemented, and who have not heretofore received the lieu selection or a reconveyance of their lands. Persons having valid claims would be paid $1.25 per acre with interest. Applications would have to be filed within one year.

86TH CONGRESS
1ST SESSION

H. R. 9142

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 1959

Mr. SISK introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall certify to the General Accounting Office for audit the claim of any person who conveyed lands to the United States as a basis for a lieu selection in accordance with the provisions of the fifteenth paragraph under the heading "Surveying the Public Lands" in the Act of June 4, 1897 (30 Stat. 11, 36), as amended and supplemented by the Acts of June 6, 1900 (31 Stat. 588, 614), March 3, 1901 (31 Stat. 1010, 1037), and

March 3, 1905 (33 Stat. 1264), and who has not heretofore received his lieu selection, a reconveyance of his lands, or authority to cut and remove timber, as provided by law, and there shall be paid to each such person whose claim is found to be proper the sum of $1.25 per acre for the lands conveyed by him to the United States with interest thereon at the rate of 4 per centum per annum, compounded annually, from the date on which application was last made by said person for a lieu selection, for reconveyance, or for authority to cut and remove timber or, if no such application has been made, from the date of this Act. Said payment shall be made from moneys appropriated under the heading "Claims for Damages, Audited Claims, and Judgments." No person shall receive, or be entitled to receive, payment under this Act except upon demand therefor made in writing to the Secretary, or any officer of the Department of the Interior to whom the Secretary delegates authority to receive such demand, within one year from the date of this Act.

SEC. 2. (a) The right to receive payment under this Act shall not be assignable.

(b) For purposes of payment under this Act, the term "person who conveyed lands to the United States" includes (i) the heirs and devisees of any such person and (ii) any other person to whom he or his heirs or devisees lawfully assigned, before enactment of this Act, their right to a lieu

selection or a reconveyance, or their right to receive authority to cut and remove timber. If more than one heir, devisee, or assignee is entitled to share in a payment to be made under this Act, each may individually claim and receive his proper share of the total amount of $1.25 per acre, with interest, which is payable hereunder.

(c) No agent or attorney acting on behalf of another to procure a payment under this Act shall demand, accept, or receive more than 10 per centum of the payment made, and any agreement to the contrary shall be null and void.

SEC. 3. The Act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483) is hereby repealed. No reconveyance of lands to which section 1 of this Act applies shall hereafter be made under section 6 of the Act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872).

86TH CONGRESS
1ST SESSION

H. R. 9142

A BILL

To provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

By Mr. SISK

SEPTEMBER 8, 1959
Referred to the Committee on Interior and Insular Affairs

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For Department Staff Only)

Issued March 15, 1960
For actions of March 14, 1960
86th-2d, No. 47

CONTENTS

HIGHLIGHTS: House committee reported bill to continue suspension of import duties on coarse wool.

SENATE

1. TRANSPORTATION. Both Houses received from the President a report, "Federal Transportation Policy and Program," which was prepared by the Department of Commerce. The President's message stated that the "report identifies emerging national transportation problems, suggests a redefined Federal role in meeting these problems, and recommends certain legislative and administrative steps intended to assure the balanced development of our transportation system," and that copies of the report have been transmitted to interested executive agencies "in order that the Secretary's recommendations may be carefully considered with a view to developing appropriate administration legislative proposals and executive branch actions." pp. 4967, 5112

2. NATURAL RESOURCES. Received a Calif. Legislature resolution urging the President "to permit Federal agencies to cooperate with the State of California in the use of the services of prisoners of the State in conservation programs related to forest fire protection and control, forest and watershed management, recreation, fish and game management, soil conservation, and forest and watershed revegetation." p. 4968

Sen. Murray commended the construction of a new sawmill at Philipsburg, Mont., to cut timber in nearby national forests, and inserted a newspaper article, "Philipsburg To Get $1 Million Sawmill," stating that "Under the Forest

Service's tree harvest plan the mill will be permanently supplied with logs from the nearby area." pp. 4985-6

3. LIVESTOCK DISEASES. Sen. Carlson inserted a resolution from the Kansas and Oklahoma Swine Producers Assoc. urging Kansas State University to expand its program of research on swine diseases. p. 4969

4. PERSONNEL. Both Houses received from the Budget Bureau a proposed bill "to authorize Government agencies to provide quarters, household furniture and equipment, utilities, subsistence and laundry service, to civilian officers and employees of the United States"; to H. Post Office and Civil Service and S. Government Operations Committees. pp. 4968, 5112

5. POSTAL RATES. Received from the Postmaster General a proposed bill to increase postal rates; to Post Office and Civil Service Committee. p. 4968

HOUSE

6. WOOL. The Ways and Means Committee reported with amendment, H. R. 9322, to make permanent the existing suspension of duties on certain coarse wool (H. Rept. 1390). p. 5112

7. PUBLIC LANDS. The Public Lands Subcommittee of the Interior and Insular Affairs Committee voted to report to the full committee, H. R. 9142, to provide for the payment of claims of persons who conveyed lands to the U. S. as a basis for lieu selections under the Act of June 4, 1897, and who have not heretofore received the lieu selection or a reconveyance of their lands. p. D200

The subcommittee also passed over, without prejudice, H. R. 9750, to supplement the Act of June 14, 1926, as amended, to permit any State to acquire certain public lands for recreation use, and H. J. Res. 557, to authorize the conveyance of lands to States for recreational purposes. p. D200

8. RESEARCH. Rep. Curtis, Mo., urged enactment of his bill, H. R. 4797, to encourage basic research in science by allowing a tax credit for contributions and other expenditures for such basic research, and inserted a speech made by the President of Westinghouse Electric Corp. which "pointed out that society gets a big bargain with the dollars it invests in research." pp. 5096-9

9. PAPER; FOREST RESEARCH. Rep. Boykin inserted a speech by Dick Doane, Pres. of the International Paper Co., which points out the place that the paper industry plays in the economy of the South, and the job that research is doing in helping the industry grow. pp. 5091-3

10. FOREIGN CURRENCIES. Three House Committees reported, as required by law, on their use of foreign currencies from Jan. 1, 1959 through Dec. 31, 1959. pp. 5110-2

11. SPECIAL STUDY. The Foreign Affairs Committee submitted a "Report of the Special Study Mission to Asia, Western Pacific, Middle East, Southern Europe, and North Africa" (H. Rept. 1386). p. 5112

ITEMS IN APPENDIX

12. GRAIN STORAGE. Extension of remarks of Rep. Cahill inserting an article, "Storing Insanity," and stating that it illustrates "the exorbitance" of the storage programs. pp. A2207-8

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For Department Staff Only)

Issued March 17, 1960
For actions of March 16, 1960
86th--2d, No. 49

CONTENTS

Both Houses received administration's sugar bill. Reps. Michel, Dixon, and others criticized Poage farm bill. Rep. Griffiths criticized this Department for not instituting food stamp plan. Sens. Bennett and Allott introduced and discussed administration's sugar bill.

SENATE

1. SUGAR. Both Houses received from this Department a proposed bill to amend and extend the Sugar Act of 1948; to H. Agriculture and S. Finance Committees. The proposed bill would extend the sugar program for 4 years, until December 31, 1964, and includes a provision authorizing the President to adjust quotas among participating nations as he deems advisable. pp. 5275, 5396

2. SOIL BANK. Both Houses received from this Department a report on the 1959 soil bank conservation reserve program. pp. 5275, 5396

3. FORESTRY; AUDITS. Both Houses received from GAO a report on the review of selected activities of the Portland regional office (region 6) of the Forest Service. pp. 5275, 5396

4. FOREIGN TRADE. Received from the State Department a summary of East-West trade in 1958. p. 5275

5. FINANCIAL REPORT. Received from the Secretary of the Treasury his report on the state of finances for fiscal year 1959. p. 5275

6. AREA REDEVELOPMENT. Received a Mass. General Court resolution urging the enactment of area redevelopment legislation to provide Federal aid to economically depressed areas. p. 5276

7. PATENTS. The Judiciary Committee submitted for printing a report, "Patents, Trademarks, and Copyrights." p. 5277

8. FARM PROGRAM. Sen. Humphrey submitted a resolution (S. Res. 291) to authorize the printing as a Senate Document a study, "Using Our Farm Productive Powers for Human Progress and Peace," which was prepared under the direction of Leon Keyserling, former Chairman of the Council of Economic Advisers. Sen. Humphrey stated that the study has a "unique usefulness because of its sweeping portrayal of the facts in a meaningful perspective - the facts about the thrust of our farm technology, about production and consumption, prices and incomes, surpluses and costs." pp. 5277, 5282-3

9. RURAL LIBRARIES. Sen. Humphrey commended and urged extension of the Library Services Act of 1956, stated that the program "has brought tremendous benefits to rural America," and inserted a statement by the director of the Library Division of the Minn. State Department of Education discussing the library services program in that State. pp. 5314-5

10. CONSERVATION; FORESTRY. Sen. Humphrey inserted an article favoring enactment of S. 812, to provide for the establishment of a Youth Conservation Corps to aid in the conservation of natural resources. p. 5315

HOUSE

11. FOREST ROADS. The Roads Subcommittee of the Public Works Committee reported to the full committee, H. R. 10495, to authorize appropriations for the fiscal years 1962 and 1963 for the construction of certain highways, including forest highways and forest development roads and trails. p. D209

12. MINERALS. The Interior and Insular Affairs Committee reported with amendment H. R. 10455, amending several provisions of the Mineral Leasing Act of 1920 (H. Rept. 1401). p. 5396

13. TRANSPORTATION. The Merchant Marine and Fisheries Committee reported without amendment, H. R. 10840, to extend for 1 year, until June 30, 1961, the period during which ocean steamship lines may, with the approval of the Federal Maritime Board, utilize the two-rate system of charging for transportation service (H. Rept. 1403). p. 5396

14. WEATHER. The Merchant Marine and Fisheries Committee reported without amendment S. 2483, to provide flexibility in the performance of certain functions of the Coast and Geodetic Survey and of the Weather Bureau in that it allows the Commerce Department to pay extra money to employees of other departments for weather observations (H. Rept. 1404) p. 5396

15. PUBLIC LANDS. The Interior and Insular Affairs Committee voted to report (but did not actually report) ~~H. R. 8567, to revise the boundaries and change the name of the Fort Laramie National Monument, Wyo.;~~ and H. R. 9142, to provide for the payment of claims of persons who conveyed lands to the U. S. as a basis for lieu selections under the Act of June 4, 1897, and who have not heretofore received the lieu selection or a reconveyance of their lands. p. D209

This Committee also passed over without prejudice H. R. 982, relating to the issuance of patents to tracts of public land held under color of title, to

in arriving at the proper level of appropriations for programs such as those financed under the Departments of Labor, and Health, Education, and Welfare Appropriation Bill. ***

"In past years, the Bureau of the Budget has not allowed increased funds to be budgeted for within-grade promotions of civil service employees. The reasoning in not allowing increases for this purpose was, first, when a person being paid at a rate above the bottom of the grade leaves his position, and the position is filled by someone at the bottom of the grade, which would normally be the case, this results in savings which offset costs; and secondly, a person is more productive as they stay in a job long enough to earn within-grade promotions. This reasoning seems very sound to the Committee. This year, the policy was changed and the budget for several of the appropriation items include increases to cover the supposed additional cost of within-grade promotions.

"The Committee took one such item as an example and had a detailed analysis made to determine what would be the maximum cost for within-grade promotions if there was absolutely no turnover which would result in offsetting savings. It was found that the amount requested was 15% greater than the actual cost could possibly be.

"The Committee has disallowed all requested increases for within-grade promotions for civil service employees except for the Bureau of Old-Age and Survivors Insurance, where the requested increase is more than offset by a reduction shown in their budget for increased productivity. This will in no way affect any employee's rights to receive a within-grade promotion if he qualifies under the civil service legislation and regulations."

Disagreed to the Senate amendments to H. R. 10233, the D. C. appropriation bill for 1961, and conferees were appointed. The conference report was subsequently received (H. Rept. 1434). pp. 6325-6, 6409

11. GENERAL GOVERNMENT MATTERS APPROPRIATION BILL. As passed by the House (see Digest 56), this bill includes various general provisions, applying to the Government generally, relating to prices of vehicles, alien employment, living quarters allowances in foreign countries, etc. In addition, the House committee broadened a provision prohibiting use of funds for publicity or propaganda designed to influence legislation, so as to make this provision applicable to the entire Government rather than to the appropriations contained in this bill. This bill also includes items for the Budget Bureau the President's Advisory Committee on Government Organization, and special activities relating to management improvement.

The committee report includes a statement as follows:

"The Committee takes note of the need for a focal point within the Executive Branch of the Government in the field of automatic data processing, and expects the Bureau of the Budget to take steps necessary to ensure that electronic data processing techniques will be employed where necessary in the interests of effectiveness and economy, and conversely that data processing devices will not be introduced when there is no clear justification in terms of economic value."

The committee report also requests that the 1962 Budget provide for direct financing of the President's Committee on Fund Raising Within the Federal Service rather than having this activity financed from defense appropriations as now done.

12. LANDS. The Interior and Insular Affairs Committee reported with amendment H. R. 9142, to provide for the payment of claims of persons who conveyed lands to the U. S. as a basis for lieu selections under the Act of June 4, 1897, and who have not heretofore received the lieu selection or a reconveyance of their lands (H. Rept. 1431). p. 6409

The Interior and Insular Affairs Committee reported without amendment H. R. 8567, to revise the boundaries and change the name of the Fort Laramie National Monument, Wyo. (H. Rept. 1432). p. 6409

13. FARM PROGRAM. Rep. Springer criticized what he called the "misconceptions that city people have with reference to American agriculture" regarding subsidies, and urged support for legislation which would "stabilize prices" and "remove surpluses hanging over the present market in the form of set-aside of grain now in Government storage bins." He was commended for his remarks by Reps. Nelsen, Kyl, and Quie. pp. 6386-88

14. INFLATION. Rep. St. George inserted a speech by Charles H. Brower, president of Batten, Barton, Durstine and Osborn, in which he criticized the effect of inflation on the American economy and morals. pp. 6394-6

15. SURPLUS COMMODITIES. Received from this Department a report for Dec. 1959 relating to sales and disposals of CCC-owned or supported commodities. p. 6408

16. FOREIGN TRADE. Rep. Stratton said the Tariff Commission failed "so miserably" to meet the "increasingly serious problem of foreign imports and the disastrous effect which these imports are having on employment in America," and discussed his bill, H. R. 11418, which would place the determination of need for, and recommendations for relief in the hands of the Secretary of Labor. pp. 6373-4

Rep. Bailey inserted an article which discussed recent criticism by some Representatives that newspaper coverage of the tariff and trade issues has been biased in favor of greater tariff reductions. pp. 6378-86

Rep. Levering criticized the policy of allowing the Government to accept foreign bids to the detriment of domestic producers. pp. 6392-3

Rep. Ostertag inserted and discussed a study made by the Library of Congress "Exports, Imports, and the U. S. Balance of International Payments" which contains references to agricultural exports and imports. pp. 6398-402

17. EDUCATIONAL EXCHANGE. Rep. Lane commended the International Educational Exchange Program calling it a "liberating influence" which will "dissolve such artificial barriers as the Iron Curtain." pp. 6374-5

ITEMS IN APPENDIX

18. FARM PROGRAM. Extension of remarks of Rep. Bentley inserting results of his annual questionnaire, including questions on the farm problem. pp. A2762-4

Extension of remarks of Rep. Berry inserting a tabulation on a questionnaire and stating that "there were a large number of farmers who demanded a repeal of the present farm program, saying 'it is only making the large farmers larger and the small farmer smaller.'" pp. A2766-7

Rep. Allen inserted an article, "Shuman Says Ike's Guidelines Are Consistent With Farm Bureau Policies." p. A2772

Extension of remarks of Rep. Levering inserting an editorial comment and stating that it "points up one of the reasons why the conservation reserve, a new version of the soil bank, ... is unacceptable to farmers, businessmen, and consumer alike." p. A2817

19. MEAT IMPORTS. Extension of remarks of Sen. Church inserting Sen. McGee's statement before the U. S. Tariff Commission in support of the action by the sheep industry in seeking relief from certain foreign imports of lamb, mutton, and live animals. p. A2766

86TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1431

PROVIDING FOR PAYMENT FOR LANDS HERETOFORE CONVEYED TO THE UNITED STATES AS A BASIS FOR LIEU SELECTIONS FROM THE PUBLIC DOMAIN

MARCH 29, 1960.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SISK, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 9142]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 9142) to provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 4, after the word "who" insert "relinquished or".

Page 1, line 10, strike out the word "and"

Page 2, line 1, preceding the word "and" insert "and the Act of September 22, 1922 (42 Stat. 1067; 16 U.S.C. 483),".

Page 2, line 5, strike out the word "proper" and insert in lieu thereof the word "valid".

Page 2, lines 7 and 8, strike out the words "compounded annually,".

Page 2, strike out all of line 13, and insert in lieu thereof:

> "Claims for Damages, Audited Claims, and Judgments," and acceptance thereof shall constitute a full and complete satisfaction of all claims which the person to whom payment is made may have against the United States arising from the transaction in connection with which the payment is made.

Page 3, following line 15, add a new section to read as follows:

> SEC. 4. Any land for which the United States makes payment under section 1 of this Act, or any land for which it might make payment thereunder upon application by the

> proper party, but for which no demand is made, shall (unless it has heretofore been disposed of by the United States) be a part of the national forest, national park, or other area within the boundaries of which it is embraced, shall be administered as a part thereof, and shall be subject to the laws, rules, and regulations applicable to land set apart and reserved from the public domain in that national forest, national park, or other area.

PURPOSE

The principal purposes of H.R. 9142 are (1) to provide compensation for land conveyed or relinquished to the United States during the years 1897–1905 under the act of June 4, 1897 (30 Stat. 11, 36), in cases in which the lieu lands or other rights which the owners were entitled to receive under this 1897 act and supplementary legislation have not already been given them; (2) to make inapplicable to the owners, their heirs and assigns a later provision of law directing the Secretary of the Interior, upon request, to return the original lands; and (3) thus to correct defects in the law under which such parties are now laying claim to valuable lands within the national forests and parks and taking them out of Federal ownership.

NEED

At hearings held by the Subcommittee on Public Lands in Fresno, Calif., and in Washington, it was learned that there is a considerable acreage of land, mostly within the national forests and parks, which was relinquished or conveyed to the United States under the 1897 act but with respect to which the lieu selections there authorized were never completed. Estimates of the land involved ranged from 25,000 to 100,000 acres. Some of the tracts were identified at the hearings as among the choicest in the Sierra and Sequoia National Forests and in the Sequoia and Kings Canyon National Parks.

It also developed at the hearings that certain persons have, in recent years, been making a practice of acquiring, from the original landowner or from one or more of his heirs, quitclaims, assignments, or other forms of transfer of rights supposedly retained in the conveyed or relinquished land. The recorded deeds and other instruments in favor of the United States are regarded by these persons as, at most, a "blur" or cloud on the original title; with the assignment in hand and after various intermediate steps (sometimes involving uncontested, quiet title suits, demands upon local taxing officials to be coassessed as an owner of the land, and similar actions to which the United States is not a party), demand is made upon the Interior Department for reconveyance of the land under the act of April 28, 1930 (46 Stat. 257), which, in pertinent part, reads as follows:

> Where a conveyance of land has been made * * * to the United States in connection with an application for * * * an exchange of lands * * *, and the application in connection with which the conveyance was made is thereafter withdrawn or rejected, the Commissioner of the General Land Office [now the Bureau of Land Management] is hereby authorized and directed, if the deed of conveyance has been recorded, to execute a quitclaim deed of the conveyed property to the party or parties entitled thereto.

Others have made it a practice to offer to aid the heirs in return for a percentage of any proceeds derived from the land when it is returned to them. The Department of the Interior has, after necessary investigations of the validity of the claims made upon it under the 1930 act, been reconveying the lands demanded. From March 1954 to August 1959 there were 71 such reconveyances, involving a total of nearly 14,500 acres.

The situation, particularly in California and other parts of the Southwest, has reached what the public press, conservation interests, and others regard as being virtually a "give-away" of public resources approaching a scandal. The committee concurs in this view and believes that enactment of H.R. 9142 is both justifiable and necessary in the circumstances, and that though it will require the expenditure of funds for lands which have been in Government ownership and possession for anywhere from 55 to 63 years, this expenditure will be far cheaper in the long run, in terms both of dollars and of the public values involved, than continuation of the present system.

DISCUSSION

The 1897 act provided that—

> in cases in which a tract covered by an unperfected bona fide claim or by a patent is included within the limits of a public forest reservation, the settler or owner thereof may, if he desires to do so, relinquish the tract to the Government, and may select in lieu thereof a tract of vacant land open to settlement not exceeding in area the tract covered by his claim or patent * * *.

This act was amended by the acts of June 6, 1900 (30 Stat. 588, 641), and March 3, 1901 (31 Stat. 1010, 1037), to limit the permissible lieu selections to—

> vacant surveyed nonmineral public lands which are subject to homestead entry

and was repealed by the act of March 3, 1905 (33 Stat. 1264). The last-named act saved, however—

> the validity of contracts entered into by the Secretary of the Interior prior to the passage of this Act.

and provided, further, that—

> selections heretofore made in lieu of lands relinquished to the United States may be perfected and patents issue therefor the same as though this Act had not been passed, and if for any reason not the fault of the party making the same any pending selection is held invalid another selection for a like quantity of land may be made in lieu thereof.

None of these acts contained any provision for reconveyance of the relinquished lands and the 1905 act, as is evident, treated the conveyor's rights as contractual rather than proprietary in nature. It was not until the act of September 22, 1922 (42 Stat. 1017), became law that there was authority for the Secretary of the Interior to make a reconveyance and this was limited to applications for reconveyance made before September 22, 1927. The 1930 act, which covers a large

variety of situations, reopened the possibility of reconveyances. There is nothing in the history of the bill that became this act to indicate any awareness of its effect upon or applicability to the old forest lieu selections problem.

In view of the earlier legislation, the 1922 and 1930 acts must, at least so far as reconveyances are concerned, be regarded as acts of grace on the part of Congress which vested no permanent or irrevocable right to a reconveyance in their beneficiaries. Enactment of H.R. 9142 will thus, in effect, restore the legal situation to what it was before these acts became law except as to lands which have been returned to private ownership in the meantime.

The committee recognizes that there has been a drastic reduction in the land available for lieu selections since enactment of the 1897 act. Millions of acres have gone into private ownership or have been withdrawn or covered into reservations since that time. It seems proper, therefore, that provision be made, as proposed in H.R. 9142, for payment to those who are precluded from exercising their original lieu selection rights, since it was never intended that the conveyed or relinquished lands should be a donation to the Government. The price to be paid ($1.25 per acre) was the going price of public lands generally at the time the base lands were relinquished. The interest payment proposed in the bill, as amended, commends itself to the committee as being reasonable and fair both to the original owner and to the Government.

The committee also recognizes that it has been held in some judicial decisions that until there had been an acceptance of the base lands by the Secretary of the Interior no rights accrued under the 1897 act. (For examples see *Roughton* v. *Knight*, 219 U.S. 537, 547 (1911); *Daniels* v. *Wagner*, 205 Fed. 235 (C.C.A. 9th, 1913).) Understandable as this position was, as of the time and in the light of the circumstances in which it was taken, the committee does not understand or believe that after a lapse of 60 years during which the Forest Service, the National Park Service, and other Government agencies have administered these lands and Congress has appropriated funds for their management, improvement, and protection, there can any longer be doubt that they have been, in law as in fact, fully accepted by the Government and that the former owners' claims to continued ownership are without merit or equity. The committee notes that the Department of Justice has examined the bill and reports that it—

> is not aware of any basis on which claims could be justified for compensation under the fifth amendment of the Constitution.

The committee agrees with this view and notes, further, that a continuation of the present system may well result in unjust enrichment of speculators whose contentions in this respect are worthless in terms of any usual standards or law or equity.

The committee was informed at its hearings that a few parcels of land which were conveyed or relinquished to the United States under the 1897 act have been disposed of and are in the hands of private owners and that these owners have been harassed by suits undertaken by assignees of the original landowners. Enactment of H.R. 9142 will afford the same protection and rights with respect to these lands as it does with respect to those that the United States continues to own and possess.

Question was raised in the committee hearings and discussion whether there still is, and whether there ought to continue to be, a right to select lieu lands for those conveyed in 1897–1905. The committee has not attempted to resolve these questions since they do not affect the principal problem with which H.R. 9142 is concerned.

COST

Estimates of the cost to the Government of making the payments authorized by H.R. 9142 depend on the acreage for which claim is made within the 1-year period provided in the bill. Assuming that claim is made for the maximum acreage on which the committee heard testimony (100,000 acres) at $1.25 per acre with simple interest at 4 percent for 60 years, the cost would be $425,000 plus administrative expenses. The chances are very great, however, that claims will be made on far less than 100,000 acres and that, in accordance with the provisions of the bill, the interest period will not extend over nearly the full 60-year period. The committee estimates, therefore, that the cost will not exceed $200,000 plus administrative expenses.

COMMITTEE AMENDMENTS

The committee received valuable suggestions for amendment of the bill from the General Accounting Office, the Department of Agriculture, the Department of the Interior, and the Department of Justice, and has adopted nearly all of them. The most important are these:

(1) Elimination of the provision in the original bill for payment of compound interest, at the recommendation of the General Accounting Office. This will drastically reduce the cost to the Government below the estimates made by that Office and will still afford fair and equitable compensation to the original landowner and his heirs.

(2) Inclusion of a provision, at the suggestion of the Department of Justice, to the effect that acceptance of the payment provided for in the bill shall be a full settlement of all claims which the acceptor may have arising out of the original conveyance or relinquishment.

(3) Inclusion of a provision, at the suggestion of the Departments of Agriculture and the Interior, to make certain that the lands in question will be administered in accordance with the laws governing the Federal area in which they are situated. In nearly all instances these will be the laws governing national parks or national forests. No special administrative problems, such as new or added payments in lieu of taxes other than what are already provided for by law, will be involved.

Other amendments adopted by the committee are perfecting in nature.

DEPARTMENTAL REPORTS

The reports of the Departments of Justice, Agriculture, and the Interior, and the General Accounting Office are favorable. They follow:

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., February 25, 1960.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H.R. 9142) to provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

The bill would direct that a sum of $1.25 per acre with interest at the rate of 4 percent, compounded, be paid upon written demand to the Secretary of the Interior within 1 year to each person who conveyed land to the United States as a basis for a lieu selection of public land pursuant to the act of June 4, 1897 (30 Stat. 11, 36), as amended, repealed or supplemented by the acts of June 6, 1900 (31 Stat. 588, 614), March 3, 1901 (31 Stat. 1010, 1037), March 3, 1905 (33 Stat. 1264), September 22, 1922 (49 Stat. 1017; 16 U.S.C. 483–486), April 28, 1930 (46 Stat. 257, sec. 6; 43 U.S.C. 873), and the act of August 5, 1955 (69 Stat. 534). The bill would not apply where lieu selections, reconveyance, or authority to cut and remove timber had been made. Assignees as well as heirs and devisees of the grantors would be entitled to the benefits of the bill.

Repeal of the act of September 22, 1922, would be effected by the bill. The 1922 act, among other things, authorized the Secretary of the Interior with the approval of the Secretary of Agriculture "to accept title to such of the base lands as are desirable for national forest purposes," which lands had been relinquished to the United States in a national forest as a basis for a lieu selection under the 1897 act but the grantors had either failed to record their lieu selections prior to the 1905 act repealing the 1897 act or had had their lieu selections rejected. In exchange for such land, the 1922 act authorized the Secretary of Agriculture to issue a patent for not to exceed an equal value of forest land, unoccupied, surveyed and nonmineral in character or to permit the cutting and removal of an equal value of timber within the national forests of the same State. Where an exchange could not be agreed upon, the Commissioner of the General Land Office was authorized to relinquish and quitclaim "all title to such lands which the respective relinquishments of such person or persons may have vested in the United States." A limitation of 5 years was imposed for furnishing proof.

The bill also would provide that no reconveyance of lands to which section 1 thereof applies shall hereafter be made under section 6 of the act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872).

The subject of this legislation is not a matter for which the Department of Justice has primary responsibility, and accordingly we make no recommendation as to the enactment of the bill. However, while the Department of Justice is not aware of any basis on which claims

could be justified for compensation under the fifth amendment of the Constitution, it might be advisable to provide in the bill that acceptance of payment thereunder shall be in full and complete settlement of any and all claims arising out of the relinquishment of lands to the United States.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

(Signed) LAWRENCE E. WALSH,
Deputy Attorney General.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., October 14, 1959.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR CONGRESSMAN ASPINALL: This is in response to your request of September 10, 1959, for our report on H.R. 9142, a bill to provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

We favor enactment of legislation to accomplish the purposes of H.R. 9142.

H.R. 9142 would require the Secretary of the Interior to certify to the General Accounting Office claims of persons who conveyed lands to the United States as a basis for lieu selections under the act of June 4, 1897 (30 Stat. 11, 36), as amended, and who have not heretofore received the lieu selection or a reconveyance of their lands. Persons having valid claims would be paid $1.25 per acre with interest. The right to receive payment would not be assignable. Applications would have to be filed within 1 year. The term "person who conveyed lands to the United States" would include the heirs or devisees of such person and any other person to whom he or his heirs or devisees lawfully assigned their right before the date of the act. Attorneys would not be authorized to receive more than 10 percent of payments.

H.R. 9142 would also repeal the act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483), and would provide that no reconveyance of such lands shall hereafter be made under section 6 of the act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872).

The situations to which H.R. 9142 are directed arise from the following circumstances:

A provision in the June 4, 1897, act authorized the owner of an unperfected bona fide claim or a tract of patented land within the limits of a national forest to relinquish or reconvey such tract to the United States and select in lieu thereof an equal acreage of vacant public land open to settlement. The March 3, 1905, act repealed this lieu selection authorization but protected valid contracts and selections previously made. The September 22, 1922, act provided that where a person or persons in good faith relinquished lands to the United States under the 1897 act but failed to place their lieu selections of record prior to the repealing act of 1905 or such lieu selections were rejected, the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of the grantor, could accept title

to the relinquished lands for national forest purposes and in exchange patent not to exceed an equal value of national forest lands, or the Secretary of Agriculture could allow the grantor to cut and remove an equal value of timber within the national forests of the same State. Where such an exchange was not agreed upon, reconveyance by quitclaim deed of the lands conveyed to the United States was authorized. Satisfactory proof of the relinquishment of the lands to the United States had to be filed within 5 years of the date of the act.

Section 6 of the April 28, 1930, act provides that where a conveyance of land has been made or may hereafter be made to the United States in connection with an application for amendment of a patented entry, or an exhange of lands, or for any other purpose, and the application in connection with which the conveyance was made is hereafter withdrawn or rejected, the Secretary of the Interior is authorized and directed, if the deed of conveyance has been recorded, to execute a quitclaim deed to the conveyed land to the party or parties entitled thereto.

Under the 1897 act, as amended and supplemented, numerous lieu selections were made and completed. The lands so conveyed to the United States became parts of the national forests within which they were situated. However, in some cases lieu selections were either not filed or not carried through to completion. Deeds conveying the privately owned lands within the national forests were executed and placed of record in the county wherein the lands were situated. For various reasons the grantors failed to follow through and obtain lieu lands. Some of the grantors exercised the privileges granted by the September 22, 1922, act; others did not. As a result, there are scattered among national forest lands in several western States, tracts of land to which there is a record title in the United States but as to which the United States has not accepted title or conveyed the lieu lands or other consideration. Due to the complexity of the records and the fact that the conveyances to the United States occurred 55 to 60 years ago, the correct status of many of these lands has become obscured.

The lands in this category have stood on the public records in the name of the United States for about half a century. The lands were all originally within national forest boundaries, but some are now within national parks. Scattered as they are among national forest or national park land, the Government, to protect its adjoining property, has had to extend fire protection to them. The grantors or their successors have been given ample opportunities to bring these transactions to a conclusion and to obtain either other lands, timber-cutting rights, or a reconveyance of the tracts. With few exceptions, and most of these within recent years, no claims have been made to these lands during all this period, with no acts of control, or protection of the lands, or other normal acts of ownership or responsibility being exercised by the former grantors or their successors. Because the lands are shown on the local county records in the name of the United States, most of them have not been on either local or State tax rolls during the nearly 55 to 60 years since the deed to the United States was placed of record. Most of the grantors are probably dead and in many instances their legal successors in interest are widely scattered or not known.

In these circumstances, this Department believes that the title to these lands should be confirmed in the United States, with provision

for such compensation to the grantors or their successors in interest as Congress finds equitable.

We recommend that a provision be added to the bill to specify that the land shall be part of the national forests or national parks within which they are located.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

(Signed) TRUE D. MORSE,
Acting Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., January 27, 1960.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. ASPINALL: This is in reply to your request for the views of this Department on H.R. 9142, a bill to provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

We recommend that H.R. 9142 be enacted, if amended as suggested below.

It was provided in the act of June 4, 1897 (30 Stat. 11, 36), that whenever a tract covered by an unperfected bona fide claim or by a patent was included within the limits of a public forest reservation the settler or owner might, if he wished, relinquish the tract to the United States and in lieu of that relinquished tract select a tract of vacant land open to settlement which did not exceed in area the relinquished tract. This statutory provision was supplemented by the act of June 6, 1900 (31 Stat. 588, 614), and the act of March 3, 1901 (31 Stat. 1010, 1037). However, the act of March 3, 1905 (33 Stat. 1264), repealed the statutory provision permitting the relinquishment of land and the selection and patenting of other lands in lieu thereof, although it protected the validity of contracts entered into by the Secretary of the Interior prior to its passage. Consequently, after 1905 it was not possible for a party, asserting a claim or holding a patent to lands within a forest, to relinquish the lands to the United States and obtain other lands in lieu thereof, unless he had initiated his action prior to March 3, 1905.

Section 1 of the act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483), provided that any person who had relinquished lands in a national forest in good faith under the 1897 act as a basis for a lieu selection might apply to the Secretary of the Interior, and the Secretary with the approval of the Secretary of Agriculture was authorized to accept title to those base lands deemed desirable for national forest purposes and to grant in exchange an equal value of national forest land which was unoccupied, surveyed, and nonmineral in character, or the Secretary of Agriculture was authorized to permit the grantor to cut and remove an equal value of timber within a national forest within the same State. Where an exchange could not at agreed upon, the Secretary of the Interior was authorized to reconvey to the party all the U.S. title to the lands which the party had conveyed. How-

ever, the statute required that parties wishing to come under its provisions show within 5 years of the date of enactment that they had relinquished the lands to the United States. Where the relinquished lands had been appropriated to a public use other than the general purpose for which the national forest within the boundaries of which they were situated had been created, the U.S. interest could be reconveyed only with the consent of the head of the agency having jurisdiction. Where this consent was not given, or the relinquished lands had been otherwise disposed of by the United States, lieu selection rights similar to those under the 1897 act were granted, provided that an application to make such a selection was filed not more than 3 years after the date of the 1922 act.

The 1922 act was probably intended to bring the forest lieu selection program to a final conclusion since while it provided for the completion of lieu selections or for the reconveyance of the base land under certain conditions, it established a definite time limit within which applicants had to act. Probably the Department could not properly consent to a reconveyance under the 1922 act of relinquished lands which the Congress had appropriated for national park purposes. The Court of Appeals of the District of Columbia stated that this was not a taking without just compensation since the party conveying the lands to the United States had a right to make a further lieu selection if he acted within the prescribed time. A late filing precluded any further selection rights, and the landowner lost all further right to compensation under that act (*Work* v. *Peale*, 26 F. (2d) 1002 (D.C. 1928)).

After the 5-year period under the 1922 act had expired, there was passed the act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872), section 6 of which directed the Secretary of the Interior to reconvey land which had been granted to the United States as the basis for an exchange of lands, or for any other purpose, upon the withdrawal or rejection of the application in connection with which the land had been conveyed to the United States. In this manner the 1930 act once again authorized the reconveyance of relinquished land, a practice which had apparently been brought to a definite conclusion some years before. There was no reference in the text of that statute to lands which had been disposed of or appropriated to another purpose. The precise effect of the 1930 act on such a situation has not been the subject of any judicial or departmental decision.

H.R. 9142 would repeal the 1922 act and direct that there be no more reconveyances under section 6 of the 1930 act, and would say that any party who had not received his lieu selection or a reconveyance of the lands which he had conveyed to the United States, or who had not received authority to cut and remove timber, might apply to the Secretary of the Interior within 1 year and receive the sum of $1.25 per acre for the lands conveyed by him to the United States. This payment would be made with 4 percent interest, compounded from the date on which that party had last applied for a lieu selection, reconveyance, or authority to cut timber. The right to receive payment under H.R. 9142 would not be assignable, although payment could be made to a party to whom a right to a lieu selection, reconveyance, or authority to cut timber had been assigned prior to the date of enactment of H.R. 9142.

Under the 1930 act over 27,000 acres have been reconveyed, while some 18,000 acres were reconveyed under the 1922 act. How much

more land would be subject to reconveyance upon proper application is uncertain at this time. We do know that under the recordation provisions of the act of August 15, 1955 (69 Stat. 534, 535), there are of record 61 pieces of scrip covering approximately 5,073 acres, and at this time there are 3 applications for further selections of approximately 482 acres. There are pending at this time under the 1930 act 15 requests for reconveyance, covering approximately 15,162 acres.

Fifty-four years have now passed since the last lands were relinquished under the 1897 act. The majority of the lands relinquished under that act have formed the basis for completed lieu selections. Some lieu selections, however, were not filed or for some reason were not carried to completion, but, nevertheless, the deeds conveying the private lands to the Government were executed and placed on the records. Some of the grantors took advantage of the 1922 act but others did not, and as a result there are scattered through the national forests in the Western States tracts of land to which the United States holds record title by reason of the old conveyances but for which parties may yet apply for reconveyance under the 1930 act. Some of these lands are now included in national parks which were created out of national forests. Some of these lands are of vital importance in the management of the national forests and the national parks. It is certainly true that parties with a right to demand a reconveyance of land have had a great deal of time in which to make application, more than 29 years by now since the last statute was passed. It would seem just and proper, therefore, that the essential interests of the Federal Government be protected by depriving parties of a further right to demand reconveyance. In this manner H.R. 9142 partakes of the nature of a statute of limitations, cutting off unexercised rights, but allowing an additional year within which compensation for those rights may be obtained.

There is no apparent reason to continue the existing right to demand reconveyance. Most of the individual grantors are now dead and their successors in interest are widely scattered or not even known. The title to these tracts is carried on local county records as being in the United States and not many of the original grantors or their successors have paid taxes on them. With the equitable owners unknown and the tracts mingled with federally owned land, the Government has provided fire protection and the administration which an owner normally provides for land during the 54 years that have elapsed since the lands were relinquished, and the grantors and their successors in interest have not performed the normal acts of ownership and responsibilities.

We have reason to believe that many of the persons now requesting reconveyances have acquired their interests only in the last few years. Under any circumstances it may be said that the original claimants have slept on their rights.

Thus we see little equitable justification for the continuance of the right to reconveyances. Continued possession of the land is vital to the interests of the Federal Government. It is to the interest of the United States that the question of the title to the relinquished lands be settled, and that title be firmly vested in the United States for the better management of the national forests and the national parks. Accordingly, we recommend the enactment of H.R. 9142.

Nevertheless, we recognize that the enactment of the bill might be held to void an existing property right; i.e., the right to the recon-

veyance of certain lands. In exchange for the canceled right the bill provides a payment of $1.25 per acre with interest. We take no position on the adequacy of this compensation. We do suggest, however, that because of the possible application of the fifth amendment of the U.S. Constitution, which provides that property shall not "be taken for public use, without just compensation," the views of the Department of Justice be requested on this aspect of the measure.

We also suggest certain clarifying amendments to H.R. 9142. There should be a reference to the act of September 22, 1922, in section 1. Accordingly, we recommend the deletion of the word "and" at page 1, line 10, and the insertion after the comma in the middle of page 2, line 1, of the words "and the Act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483)". The word "or" at page 2, line 2, should be deleted and the words "or other benefits" should be inserted at line 3 before the word "as". Finally, we suggest that the word "valid" be substituted for the word "proper" at page 2, line 5, since valid is the adjective normally used with respect to a claim which has been filed on time and which is substantiated by the record evidence. To keep section 2 consistent with section 1, as we would have it amended, the word "or" at page 3, line 1, should be deleted, and the phrase ", or other benefits" should be inserted after "timber" at page 3, line 2. We also recommend the addition of a new section to assure that the lands subject to H.R. 9142 will be made subject to the laws governing the areas within which they are embraced. This section should provide:

"SEC. 4. Any land for which the United States makes payment under section 1 of this Act, or any land for which it might make payment thereunder upon application by the proper party, but for which no demand is made, shall be a part of the national forest, national park, or other area within the boundaries of which it is embraced, shall be administered as a part thereof, and shall be subject to the laws, rules, and regulations applicable to land set apart and reserved from the public domain in that national forest, national park, or other area."

It is difficult to determine what the eventual cost of this legislation might prove to be. The Bureau of Land Management of this Department has stated that a reasonable estimate of the outstanding acreage for which demand could be made would be between 25,000 and 100,000 acres. The interest could be charged under the provisions of H.R. 9142 for periods ranging from 1 to 62 years. If a relinquishment was recorded prior to March 3, 1905, but no selection was ever filed, interest would be payable only from the date of approval of H.R. 9142. If the relinquishment was recorded between June 4, 1897, and March 3, 1905, and a selection was filed and rejected during that period, the interest period would be from 54 to 62 years. There are innumerable other possible periods of time which may have elapsed since the last application for a lieu selection, a reconveyance, or authority to cut timber. If the acreage involved is 25,000 acres, and the maximum period of time is 62 years, the maximum sum of $1.25 per acre compounded annually at 4 percent would amount to $355,562; if the acreage involved is 100,000 acres, the sum would be $1,422,248. This, of course, is the absolute maximum possible cost under the provisions of H.R. 9142. As we have pointed out above, however, we believe that the Department of Justice should be consulted on the question of compensation.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

ROGER ERNST,
Acting Secretary of the Interior.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, November 2, 1959.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: Your letter of September 10, 1959, acknowledged September 11, requests our comments on H.R. 9142.

The bill provides for settlement of certain claims of persons who have heretofore conveyed lands to the United States as a basis for lieu selections pursuant to the act of June 4, 1897 (30 Stat. 11, 36), as amended and supplemented by the acts of June 6, 1900 (31 Stat. 588, 614), March 3, 1901 (31 Stat 1010, 1337), and March 3, 1905 (33 Stat. 1264). Payment would be authorized at the rate of $1.25 per acre with interest at the rate of 4 percent per annum compounded annually. The bill would bring to a conclusion all unresolved claims and rights under the statutes therein cited.

The enactment of legislation of this character is a matter of congressional policy on which we express no opinion. However, we do wish to comment concerning the interest to be paid. In effect, the act of June 4, 1897, allowed the owner of a patented tract of land or a settler on an unperfected bona fide claim within the limits of Federal forests to relinquish his tract to the United States and to select in lieu thereof a similar tract of vacant land open to settlement. The 1900 and 1901 acts required these in lieu selections to be confined to vacant, surveyed, nonmineral public lands which were subject to homestead entry. The 1905 act repealed the 1897, 1900, and 1901 acts with the proviso that (1) in lieu selections theretofore made could be perfected and patents issued and (2) the validity of contracts entered into prior to its enactment should remain unimpaired.

The 1905 statute in many cases precluded in lieu selections on conveyances to the Government prior thereto relative to which no selection had been made. This resulted in clouded titles with respect to these lands. To correct this condition the Congress passed the act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483). This statute authorized any person or persons who in good faith relinquished lands in a national forest under the 1897 act and failed to get their lieu selections recorded prior to enactment of the 1905 act or whose lieu selections, though duly filed, were rejected, to make new selections. In such event, the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of such person or persons, his heirs or assigns, was authorized to accept title to such of the base lands as might be desirable for national forest purposes, and in exchange therefor to—

(1) issue patent for not to exceed an equal value of national forest land, unoccupied, surveyed, and nonmineral in character, or

(2) the Secretary of Agriculture could authorize the grantor to cut and remove an equal value of timber within the national forests of the same State.

The 1922 act further provided that where an exchange could not be agreed upon, the Commissioner of the General Land Office could relinquish and quitclaim to such person or persons, their heirs or assigns, all title which the United States might have in such lands. The proof of relinquishment was required to be made within 5 years after enactment of the statute.

Section 2 of the act provided that if the relinquished lands had been disposed of or appropriated to public use, other than the general purposes for which the national forests in which they were situated were created, such lands could not be relinquished and quitclaimed, in the absence of consent by the head of the department having jurisdiction thereof. In the event of failure of such consent or in the event of prior conveyance of the land by the United States, other surveyed, nonmineral, unoccupied, unreserved public lands of approximately equal area and value could be selected and patented in lieu of the lands so appropriated or disposed of in the manner and subject to the terms and conditions prescribed by the 1897 act and regulations issued thereunder. Applications to make such lieu selections were required to be filed in the General Land Office within 3 years after the date of the act.

Apparently the 1922 act was intended, by reason of the statutes of limitation therein provided, to bring to a conclusion all activities authorized under the 1897 act and subsequent in lieu acts, and to provide for the settlement of all claims arising thereunder. It appears, however, that many claimants under the in lieu statutes failed to make timely applications under the 1922 statute. This resulted in enactment of section 6 of the act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872). Section 6 directs the Secretary of the Interior to execute a quitclaim deed to the parties entitled thereto where a conveyance of land has been, or may thereafter be, made to the United States incident to an exchange of lands or for any other purposes and where the application incident to such conveyance is thereafter withdrawn or rejected.

The Bureau of Land Management (BLM) has informed us that prior to the 1930 act a rule had been followed whereby any appropriation of land conveyed for in lieu purposes would preclude the issuance of a quitclaim title to the tract to its grantor (citing 50 L.D. 660) and that after the enactment of section 6 of this act the Bureau has operated on the basis that it was mandatory to execute a quitclaim deed of the conveyed land to the party entitled thereto notwithstanding its prior appropriation. A decision by the Assistant Secretary of the Interior, A–14858, dated September 30, 1930, was cited in support of this view. H.R. 9142 is intended to close out, finally and conclusively, all rights created in these and other grantors of lands which were conveyed pursuant to the above statutory provisions.

No accurate estimate of the cost of H.R. 9142 can be made. We have been informed by BLM that the amount of valid forest in lieu selection acreage which could form a basis for further selection can only be determined as each individual case is presented. The record indicates that under the recordation provisions of the act of August 5, 1955 (69 Stat. 534, 535), BLM has of record 61 pieces of recorded scrip approximating 5,073 acres. Also, BLM currently is considering 3 additional applications for further selection approximating 482 acres and 15 requests for reconveyances involving approximately 15,162

acres under section 6 of the 1930 act. The dates of the applications involved incident to this acreage have not been compiled and the compounded interest cost allowable under section 1 of H.R. 9142 therefore cannot be computed.

BLM has indicated that a reasonable estimate for outstanding conveyed acreage for which demand could be made under the proposed legislation, based upon its experience with the lieu acts, would be between 25,000 and 100,000 acres. A BLM schedule prepared upon this premise and based upon five interest periods considered possible under H.R. 9142 indicates a minimum possible cost of $32,500 under section 1 and a maximum cost of $1,422,248. In our opinion these estimates are valueless as a determination of reasonable costs because of the probable large variance of application dates which must be considered for compounded interest purposes incident to the applications presently being considered and those on future claims made possible thereunder. Since the compounded interest allowable makes up such a substantial portion of these costs we believe that costs must be based upon the reasonable average age of the claimant's applications. So far as we are aware this information is not available.

As heretofore indicated section 1 of the bill would allow a claimant interest on the value of his conveyance "at the rate of 4 per centum per annum compounded annually, from the date on which application was last made." Payment of interest on this basis might represent the major cost to the Government under the bill. In the aforementioned BLM schedule the possible ages of in lieu applications involved in the bill are shown to be from 1 to 62 years. The compounding of interest would increase a claimant's basic claim elevenfold in 62 years, 8 times in 54 years, 4 times in 37 years, and about threefold in 29 years. We believe that the proposed allowance of compound interest as proposed in the bill is without precedent with respect to claims against the United States. For example, in condemnation proceedings authorized under 42 U.S.C. 159a(c) interest is allowable under prevailing law at the rate of 4 percent per annum on unpaid balances due the owner of the property taken and under the Declaration of Taking Act of February 26, 1931 (46 Stat. 1421; 40 U.S.C. 258a), interest is allowable at the rate of 6 percent on the excess award for the land taken over the deposit. Simple interest on judgments is allowable from the date of entry of the judgment until paid (28 U.S.C. 2071, rule 56; 46 U.S.C. 742, 745). Similarly, simple interest is allowable on taxes overpaid and judgments therefor (28 U.S.C. 2411) and on tort claims reduced to judgment (28 U.S.C. 2674).

Since H.R. 9142 generally would operate to revive claims and rights otherwise lost and since the bill proposes to compensate for takings not presently compensable under prior statutes, we are of the view that, if interest is to be allowed, it should be simple interest commencing at the date of taking (application) to date of payment rather than compound interest.

Sincerely yours,

(Signed) Frank H. Weitzel,
Assistant Comptroller General of the United States.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends the enactment of H.R. 9142 as amended.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introdueed, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF SEPTEMBER 22, 1922 (42 STAT. 1017; 16 U.S.C. 483)

[Where any person or persons in good faith relinquished to the United States lands in a national forest as a basis for a lieu selection under the Aet of June 4, 1897 (Thirtieth Statutes at Large, pages 11, 36), and failed to get their lieu selections of reeord prior to the passage of the Aet of March 3, 1905 (Thirty-third Statutes at Large, page 1264), or whose lieu selections, though duly filed, are finally rejected, the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of sueh person or persons, their heirs or assigns, is authorized to accept title to such of the base lands as are desirable for national forest purposes, which lands shall thereupon become parts of the nearest national forest, and, in exchange therefor, may issue patent for not to exceed an equal value of national forest land, unoccupied, surveyed, and nonmineral in character, or the Secretary of Agrieulture may authorize the grantor to cut and remove an equal value of timber within the national forests of the same State. Where an exchange cannot be agreed upon the Secretary of the Interior or such officer as he may designate is hereby authorized to relinquish and quitelaim to such person or persons, their heirs or assigns, all title to such lands which the respective relinquishments of sueh person or persons may have vested in the United States: *Provided*, That sueh person or persons, their heirs or assigns, shall, within five years after the date of this Act, make satisfactory proof of the relinquishment of such lands to the United States by submitting to the Secretary of the Interior or such officer as he may designate an abstract of title to such lands showing relinquishment of the same to the United States, whieh abstract or abstracts shall be retained in the files of the Bureau of Land Management.

[SEC. 2. That if it shall appear that any of the lands relinquished to the United States for the purpose stated in the preceding section have been disposed of or appropriated to a publie use, other than the general purposes for which the national forest within the bounds of which they are situate was ereated, sueh lands shall not be relinquished and quitelaimed as provided therein, unless the head of the department having jurisdiction over the lands shall consent to such relinquishment; and if he shall fail to so consent, or if any of the lands so relinquished have been otherwise disposed of by the United States, other surveyed, nonmineral, unoccupied, unreserved publie lands of approximately equal area and value may be selected and patented in lieu of the lands so appropriated or disposed of in the manner and subjeet to the terms and eonditions prescribed by said Act of June 4, 1897, and the regulations issued thereunder: *Provided*, That applieations to make sueh lieu seleetions must be filed in the Bureau of Land Management within three years after the date of this Act.]

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Union Calendar No. 624

86TH CONGRESS
2D SESSION

H. R. 9142

[Report No. 1431]

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 1959

Mr. SISK introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

MARCH 29, 1960

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall certify to the General Accounting Office for audit the claim of any person who *relinquished or* conveyed lands to the United States as a basis for a lieu selection in accordance with the provisions of the fifteenth paragraph under the heading "Surveying the Public Lands" in the Act of June 4, 1897 (30 Stat. 11, 36), as amended and supplemented by the Acts of June 6, 1900 (31 Stat. 588, 614), March 3, 1901 (31 Stat. 1010, 1037),

~~and~~ March 3, 1905 (33 Stat. 1264) *and the Act of September 22, 1922 (42 Stat. 1067, 16 U.S.C. 483)*, and who has not heretofore received his lieu selection, a reconveyance of his lands, or authority to cut and remove timber, as provided by law, and there shall be paid to each such person whose claim is found to be ~~proper~~ *valid* the sum of $1.25 per acre for the lands conveyed by him to the United States with interest thereon at the rate of 4 per centum per annum, ~~compounded annually,~~ from the date on which application was last made by said person for a lieu selection, for reconveyance, or for authority to cut and remove timber or, if no such application has been made, from the date of this Act. Said payment shall be made from moneys appropriated under the heading ~~"Claims for Damages, Audited Claims, and Judgments."~~ *"Claims for Damages, Audited Claims, and Judgments," and acceptance thereof shall constitute a full and complete satisfaction of all claims which the person to whom payment is made may have against the United States arising from the transaction in connection with which the payment is made.* No person shall receive, or be entitled to receive, payment under this Act except upon demand therefor made in writing to the Secretary, or any officer of the Department of the Interior to whom the Secretary delegates authority to receive such demand, within one year from the date of this Act.

SEC. 2. (a) The right to receive payment under this Act shall not be assignable.

(b) For purposes of payment under this Act, the term "person who conveyed lands to the United States" includes (i) the heirs and devisees of any such person and (ii) any other person to whom he or his heirs or devisees lawfully assigned, before enactment of this Act, their right to a lieu selection or a reconveyance, or their right to receive authority to cut and remove timber. If more than one heir, devisee, or assignee is entitled to share in a payment to be made under this Act, each may individually claim and receive his proper share of the total amount of $1.25 per acre, with interest, which is payable hereunder.

(c) No agent or attorney acting on behalf of another to procure a payment under this Act shall demand, accept, or receive more than 10 per centum of the payment made, and any agreement to the contrary shall be null and void.

SEC. 3. The Act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483) is hereby repealed. No reconveyance of lands to which section 1 of this Act applies shall hereafter be made under section 6 of the Act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872).

SEC. 4. Any land for which the United States makes payment under section 1 of this Act, or any land for which it might make payment thereunder upon application by the

proper party, but for which no demand is made, shall (unless it has heretofore been disposed of by the United States) be a part of the national forest, national park, or other area within the boundaries of which it is embraced, shall be administered as a part thereof, and shall be subject to the laws, rules, and regulations applicable to land set apart and reserved from the public domain in that national forest, national park, or other area.

Union Calendar No. 624

86TH CONGRESS
2D SESSION

H. R. 9142

[Report No. 1431]

A BILL

To provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

By Mr. SISK

SEPTEMBER 8, 1959

Referred to the Committee on Interior and Insular Affairs

MARCH 29, 1960

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For Department Staff Only)

Issued April 5, 1960
For actions of April 4, 1960
86th-2d, No. 61

CONTENTS

HIGHLIGHTS: Sen. Dirksen introduced and discussed road authorization bill.

SENATE

1. FATS AND OILS. The Finance Committee voted to report (but did not actually report) H. R. 8649, to continue for 3 years the suspension of tax on the first domestic processing of coconut oil, palm oil, and palm-kernel oil. p. D267

2. CHICORY. The Finance Committee voted to report (but did not actually report) H. R. 9307, to continue for 2 years the suspension of duty on certain alumina and bauxite, with an amendment to extend the suspension of duty on crude chicory. (p. D267) The "Daily Digest" states that the committee deferred action on H. R. 9308, to extend for 3 years the suspension of duty on imports of crude chicory, and the reduction in duty on ground chicory. (p. D268)

3. FIBERS; PROPERTY. The "Daily Digest" states that the Finance Committee deferred action on the following bills: p. D268

H. R. 9861, to continue until Sept. 5, 1963, the existing suspension of duty on certain istle and tampico fibers.

H. R. 9881, to extend for two years the existing provisions of law relating to the free importation of personal and household effects brought into the U. S. under Government orders.

4. WATERSHED PROJECTS. Both Houses received from the Budget Bureau plans for works of improvement on the following watersheds: Vineland area tributary to Arkansas River, Colo.; White Clay, Brewery, Whiskey Creeks, Kans.; Tortugas Arroyo, N. Mex.; Huff Creek, S. C.; and Brush Creek, W. Va.; to S. Agriculture and Forestry and H. Agriculture Committees. pp. 6710, 6713

5. POSTAL RATES. Both Houses received from the Small Business Administration a report on the study of the effect of third-class bulk mail rate increases on small business and others. To Post Office and Civil Service Committees. pp. 6710, 6714

6. ELECTRIFICATION. Sen. Carroll commended the inclusion of $250,000 in the 1961 Interior appropriation bill to be "used to study development of a coal-fired gas turbine which would increase the efficiency of utilizing coal in the generation of electric power," and stated that such research would aid REA co-ops in Colorado in the future development of generating and transmission facilities. pp. 6768-9

HOUSE

7. SECOND SUPPLEMENTAL APPROPRIATION BILL, 1960. House conferees were appointed on this bill, H. R. 10743. Senate conferees have already been appointed. p. 6675

8. PERSONNEL; PROPERTY. Passed over, at the request of Rep. Gross, H. R. 8074, to permit the assignment of agricultural attaches for a maximum of 4 years in the U. S. without grade reduction. p. 6676

Passed, as reported H. R. 10978, to provide for the settlement of claims against the U. S. by members of the uniformed services and civilian officers and employees of the U. S. for damage to, or loss of, personal property incident to their service. p. 6679

9. FLOOD RELIEF. Passed as reported H. R. 5726, for the relief of Hood County, Tex., a flood relief disaster area. p. 6676

10. NATURAL RESOURCES; INFORMATION. Passed with amendment S. 1185, to provide for the preservation of historical and archeological data on public and other lands (including relics and specimens) which might otherwise be lost as a result of the construction of a dam. p. 6678

11. LANDS. Passed as reported, H. R. 9142, to provide for the payment of claims of persons who conveyed lands to the U. S. as a basis for lieu selections under the Act of June 4, 1897, and who have not heretofore received the lieu selection or a reconveyance of their lands. pp. 6679-80

Passed over, at the request of Rep. Hechler, H. R. 8567, to revise the boundaries and change the name of the Fort Laramie National Monument, Wyo. p. 6681

12. EXPORT CONTROL. Passed under suspension of rules, H. R. 10550, to extend the Export Control Act of 1949 for two additional years. p. 6681

13. PUBLICATIONS. Received from the Administrative Assistant Secretary of Interior, a draft of proposed legislation "to provide agencies of the Government of the U. S. with the authority to pay in advance for required publications." Referred to Government Operations Committee. p. 6710

14. LEGISLATIVE PROGRAM. Rep. Albert stated that later in the week the House will consider H. R. 9322, to make permanent the existing suspension of duties on certain coarse wool. p. 6696

Mr. GROSS. Mr. Speaker, reserving the right to object, I would point out to the Members that the House has approved the purchase of high-priced land for a $75 million cultural center in Washington, D.C. The House has also approved the purchase of a building site for a Pan American Building at a rate of somewhere near $20 a square foot, and I understand the Congressional Women's Club will be in with a bill for some land on which to erect a new building. I simply point out that we cannot do all these things, establish historic sites all over the United States and buy land in the District of Columbia. There just is not that kind of money to be spread around. Somewhere we have got to call a halt.

Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

KURE BEACH, N.C.

The Clerk called the resolution (H Res. 470) providing for sending the bill H.R. 10919 for the relief of the town of Kure Beach, N.C., to the Court of Claims.

Mr. WEAVER. Mr. Speaker, at the request of another Member, I ask unanimous consent that the resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

CLAIMS OF MILITARY AND CIVILIAN PERSONNEL

The Clerk called the bill (H.R. 10978) to provide for the settlement of claims against the United States by members of the uniformed services and civilian officers and employees of the United States for damage to, or loss of, personal property incident to their service, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Military Personnel and Civilian Employees' Claims Act of 1960."

SEC. 2. As used in this Act—

(1) "agency" includes an executive department, independent establishment, or corporation primarily acting as an instrumentality, of the United States, but does not include any contractor with the United States;

(2) "uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service; and

(3) "settle" means consider, ascertain, adjust, determine, and dispose of any claim, whether by full or partial allowance or disallowance.

SEC. 3. (a) Under such regulations as the head of an agency may prescribe, he or his designee may settle and pay a claim arising after the effective date of this Act against the United States for not more than $6,500 made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency, for damage to, or loss of, personal property incident to his service. If the claim is substantiated and the possession of that property is determined to be reasonable, useful, or proper under the circumstances, the claim may be paid or the property replaced in kind. This subsection does not apply to claims settled and paid before its enactment.

(b) If a person named in subsection (a) is dead, the head of the agency concerned, or his designee, may settle and pay any claim made by the decedent's surviving (1) spouse, (2) children, (3) father or mother, or both, or (4) brothers or sisters, or both, that arose before, concurrently with, or after the decedent's death and is otherwise covered by subsection (a). Claims of survivors shall be settled and paid in the order named.

(c) A claim may be allowed under subsection (a) for damage to, or loss of, property only if—

(1) it is presented in writing within two years after it accrues, or within one year after the date of the enactment of this Act, whichever is later, except that if the claim accrues in time of war on in time of armed conflict in which any armed force of the United States is engaged or if such a war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not later than two years after that cause ceases to exist, or two years after the war or armed conflict is terminated, whichever is earlier;

(2) it did not occur at quarters occupied by the claimant within the fifty States or the District of Columbia that were not assigned to him or otherwise provided in kind by the United States; or

(3) it was not caused wholly or partly by the negligent or wrongful act of the claimant, his agent, or his employee.

(d) For the purpose of subsection (c)(1), the dates of beginning and ending of an armed conflict are the dates established by concurrent resolution of Congress or by a determination of the President.

(e) The head of each agency shall report once a year to Congress on claims settled under this section during the period covered by the report. The report shall include for each claim the name of the claimant, the amount claimed, and the amount paid.

SEC. 4. Notwihtstanding any other provision of law, the settlement of a claim under this Act is final and conclusive.

SEC. 5. Chapter 163 of title 10, United States Code, is amended as follows:

(1) Section 2735 is amended by striking out the figure "2732," and the comma after the figure "2733".

(2) The analysis is amended by striking out the following item:

"2732. Property loss: incident to service; members of Army, Navy, Air Force, or Marine Corps and civilian employees."

(3) Section 2732 is repealed.

SEC. 6. Section 2 of the Act of June 7, 1956, chapter 376 (70 Stat. 255), is repealed.

With the following committee amendment:

Add a new section as follows:

"SEC. 7. Chapter 13 of title 14, United States Code, is amended as follows:

"'(1) The analysis is amended by striking out the following item: "'"490." Settlement of claims of military and civilian personnel."'

"'(2) Section 490 is repealed.'"

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WHITE HOUSE CONFERENCE ON NARCOTICS

The Clerk called the resolution (H. Res. 431) expressing the sense of the House of Representatives that the President shall call a White House Conference on narcotics.

Mr. GROSS. Mr. Speaker, reserving the right to object, is this resolution to be called up under suspension of the rules?

The SPEAKER. It will be.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PAYMENT FOR LANDS CONVEYED TO THE UNITED STATES

The Clerk called the bill (H.R. 9142) to provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall certify to the General Accounting Office for audit the claim of any person who conveyed lands to the United States as a basis for a lieu selection in accordance with the provisions of the fifteenth paragraph under the heading "Surveying the Public Lands" in the Act of June 4, 1897 (30 Stat. 11, 36), as amended and supplemented by the Acts of June 6, 1900 (31 Stat. 588, 614), March 3, 1901 (31 Stat. 1010, 1037), and March 3, 1905 (33 Stat. 1264) and who has not heretofore received his lieu selection, a reconveyance of his lands, or authority to cut and remove timber, as provided by law, and there shall be paid to each such person whose claim is found to be proper the sum of $1.25 per acre for the lands conveyed by him to the United States with interest thereon at the rate of 4 per centum per annum, compounded annually, from the date on which application was last made by said person for a lieu selection, for reconveyance, or for authority to cut and remove timber or, if no such application has been made, from the date of this Act. Said payment shall be made from moneys appropriated under the heading "Claims for Damages, Audited Claims, and Judgments." No person shall receive, or be entitled to receive, payment under this Act except upon demand therefor made in writing to the Secretary, or any officer of the Department of the Interior to whom the Secretary delegates authority to receive such demand, within one year from the date of this Act.

SEC. 2. (a) The right to receive payment under this Act shall not be assignable.

(b) For purposes of payments under this Act, the term "person who conveyed lands to the United States" includes (i) the heirs and devisees of any such person and (ii) any other person to whom he or his heirs or devisees lawfully assigned, before enactment of this Act, their right to a lieu selection or a reconveyance, or their right to receive authority to cut and remove timber. If more than one heir, devisee, or assignee is entitled to share in a payment to be made under this Act, each may individually claim and receive his proper share of the total amount of $1.25 per acre, with interest, which is payable hereunder.

and in no case is the effect on competition even mentioned. The Federal antitrust laws also offer little help in controlling bank mergers. The Clayton Act is ineffective as to bank mergers because in the case of banks it covers only stock acquisitions and bank mergers are not accomplished that way. The Sherman Act has been invoked only once in court to stop a bank merger, and that case is still pending.

So I think you will agree there is a real need for this type of legislation.

The bill the committee has reported meets this recognized need by giving the Federal bank supervisory agencies control over all bank mergers resulting in banks that are federally insured. All such mergers would be judged by a uniform set of standards. The bill spells out seven factors the supervisory agencies are to consider. Six of these are banking factors, covering such matters as the prospects of the banks involved and the needs of the community, and the seventh factor is "the effect of the transaction on competition—including any tendency toward monopoly." After considering all these factors, the agency must find the merger would be in the public interest before approval may be given.

This puts control in the banking agencies, which have expert knowledge of the problems involved. At the same time, they will be required to get a report from the Attorney General, whose experience in the antitrust field qualifies him to furnish valuable advice in the administration of the bill.

This bill was reported out of the Banking and Currency Committee without a dissenting vote, and I urge you to vote for it in the hope it can be sent to the President without further delay.

[Mr. KILBURN'S remarks will appear hereafter in the Appendix.]

Mr. BROWN of Georgia. Mr. Speaker, I am happy to recommend this bill to the House. It is a compromise bill, which I believe offers a sound solution to difficult problems that have proved a stumbling block to legislation in this field in recent years. Members of the House will recall that a bill to regulate bank mergers passed the House in 1956. Different bank merger bills passed the Senate in 1956, 1957, and 1959. The President has also urged Congress to enact legislation in this field. Until today, however, there has been considerable argument as to what form this legislation should take. I am privileged to serve as chairman of the subcommittee of the Banking and Currency Committee which undertook the task of reconciling these differences, and I am pleased to report that we had splendid cooperation from the chairman of the House Judiciary Committee, Hon. EMANUEL CELLER, as well as from the Federal bank supervisory agencies and the Department of Justice in working out the bill we have recommended to you. This bill was reported unanimously to the House by the Banking and Currency Committee.

As Chairman SPENCE has explained to you, the bill provides that no merger which is to result in a bank insured by the Federal Deposit Insurance Corporation may take place unless it has been approved by one of the Federal bank supervisory agencies—the Comptroller of the Currency for national banks, the Federal Reserve Board for State member banks, and the Federal Deposit Insurance Corporation for insured nonmember banks. This puts the responsibility for acting on a proposed merger where it belongs—in the agency charged with supervising and examining the bank which will result from the merger. Out of their years of experience in supervising banks, our Federal banking agencies have developed specialized knowledge of banking and the people who engage in it. They are experts at judging the condition of the banks involved, their prospects, their management, and the needs of the community for banking services. They should have primary responsibility in deciding whether a proposed merger would be in the public interest.

The bill specifies six banking factors to be considered in acting on a proposed merger: That is, it requires the banking agency to take into consideration, for each of the banks involved, the financial history, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served, and whether or not its corporate powers are consistent with the purposes of the Federal Deposit Insurance Act. In addition to these six banking factors, the bill requires the agency to take into consideration the effect of the proposed transaction on competition—including any tendency toward monopoly. The agency will not approve the transaction unless, after weighing all these factors, it concludes that the proposed merger will be in the public interest.

In determining whether a merger is in the public interest, the banking agency will consider the several factors listed in the bill; after weighing them, the agency will determine whether the net balance is favorable or unfavorable, and will approve the merger only if the merger is in the public interest in the sense that this balance is favorable.

We want to be sure that the three different banking agencies are all using the same standards in passing on mergers; so the bill requires the agency handling the application to request reports from the other two banking agencies as to the competition factors involved before it approves or disapproves the merger. Also, the bill provides for a similar report from the Attorney General, so that the banking agencies will have the benefit of the long experience of the Antitrust Division in protecting competition in business generally. Normally, the other banking agencies and the Attorney General will have 30 days in which to submit their advisory reports. In emergencies, however, this may be shortened to 10 days. In an extreme emergency—that is, where immediate action is needed to save a failing bank—consultation will not be required. While this may seem somewhat cumbersome procedure, I feel it can work smoothly with proper cooperation among the agencies concerned and the results will be worth it.

There is general agreement that stronger, clearer, more uniform controls over bank mergers are needed. This bill will meet this need, in a way that assures a balanced consideration of the total effects of a merger, with appropriate consultation among all interested agencies. In this way, we can expect that bank mergers which will be beneficial will be approved, and those which will not will be stopped.

I urge the House to approve this bill.

Mr. CELLER. Mr. Speaker, I urge enactment of S. 1062 which would provide additional and vitally needed safeguards against bank mergers and consolidations which might lessen competition or tend to monopoly in the field of banking. This measure is, in my considered judgment, the minimum necessary to maintain a sound, vigorously competitive unit banking system in this country and to arrest a merger trend which is contributing substantially to the control of the Nation's banking business by fewer and larger financial institutions.

Our Antitrust Subcommittee, a few years ago, made a lengthy study and report which demonstrated dramatically the extent of concentration in banking that has been taking place in recent years, largely because of unfettered merger activity and inadequate Federal legislation. Our subcommittee study showed that while there were approximately 13,500 commercial banks in this country, the 100 largest controlled approximately 46 percent of the Nation's total bank assets, and more than 48 percent of the bank deposits. It showed that in 10 of the Nation's 16 leading financial centers, 4 banks owned more than 80 percent of all commercial assets; that in 9 of these financial centers, 2 banks owned more than 60 percent of all commercial bank assets; and that in each of the 16 leading financial centers, the first 2 banks owned more than 40 percent of all the commercial assets, the first 4 banks, 60 percent.

Such concentration is contrary to the fundamental premise that the banking system of the United States should rely for its vitality on vigorous competition by a multitude of independent banks, locally organized, locally financed, and locally managed. For unlike other countries, such as Great Britain, France, and Germany, where a few mammoth institutions control nearly all the banking facilities, the American system is based on competition as one of the strangest factors safeguarding a sound banking system.

A corollary matter of serious concern resulting from merger activity is the gradual decline in the total number of banks in the Nation. The fact is that the banking population of our country is at a 38-year low despite the postwar boom, despite the 286-percent growth in bank assets, despite the new high level of loans and deposits, despite the greatly increased use made of banking services, and despite the enormous growth in the number of depositors. As a consequence of this diminution of banks through mergers, competition among banking in-

86TH CONGRESS
2D SESSION

H. R. 9142

IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 5), 1960

Read twice and referred to the Committee on Interior and Insular Affairs

AN ACT

To provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall certify to the General Accounting Office for audit the claim of any person who relinquished or conveyed lands to the United States as a basis for a lieu selection in accordance with the provisions of the fifteenth paragraph under the heading "Surveying the Public Lands" in the Act of June 4, 1897 (30 Stat. 11, 36), as amended and supplemented by the Acts of June 6, 1900 (31 Stat. 588, 614), March 3, 1901 (31 Stat. 1010, 1037),

March 3, 1905 (33 Stat. 1264) and the Act of September 22, 1922 (42 Stat. 1067, 16 U.S.C. 483), and who has not heretofore received his lieu selection, a reconveyance of his lands, or authority to cut and remove timber, as provided by law, and there shall be paid to each such person whose claim is found to be valid the sum of $1.25 per acre for the lands conveyed by him to the United States with interest thereon at the rate of 4 per centum per annum, from the date on which application was last made by said person for a lieu selection, for reconveyance, or for authority to cut and remove timber or, if no such application has been made, from the date of this Act. Said payment shall be made from moneys appropriated under the heading "Claims for Damages, Audited Claims, and Judgments," and acceptance thereof shall constitute a full and complete satisfaction of all claims which the person to whom payment is made may have against the United States arising from the transaction in connection with which the payment is made. No person shall receive, or be entitled to receive, payment under this Act except upon demand therefor made in writing to the Secretary, or any officer of the Department of the Interior to whom the Secretary delegates authority to receive such demand, within one year from the date of this Act.

SEC. 2. (a) The right to receive payment under this Act shall not be assignable.

(b) For purposes of payment under this Act, the term "person who conveyed lands to the United States" includes (i) the heirs and devisees of any such person and (ii) any other person to whom he or his heirs or devisees lawfully assigned, before enactment of this Act, their right to a lieu selection or a reconveyance, or their right to receive authority to cut and remove timber. If more than one heir, devisee, or assignee is entitled to share in a payment to be made under this Act, each may individually claim and receive his proper share of the total amount of $1.25 per acre, with interest, which is payable hereunder.

(c) No agent or attorney acting on behalf of another to procure a payment under this Act shall demand, accept, or receive more than 10 per centum of the payment made, and any agreement to the contrary shall be null and void.

SEC. 3. The Act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483) is hereby repealed. No reconveyance of lands to which section 1 of this Act applies shall hereafter be made under section 6 of the Act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872).

SEC. 4. Any land for which the United States makes payment under section 1 of this Act, or any land for which it might make payment thereunder upon application by the proper party, but for which no demand is made, shall (unless it has heretofore been disposed of by the United States)

be a part of the national forest, national park, or other area within the boundaries of which it is embraced, shall be administered as a part thereof, and shall be subject to the laws, rules, and regulations applicable to land set apart and reserved from the public domain in that national forest, national park, or other area.

Passed the House of Representatives April 4, 1960.

Attest: RALPH R. ROBERTS,

Clerk.

86TH CONGRESS
2D SESSION

H. R. 9142

AN ACT

To provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

APRIL 6 (legislative day, APRIL 5), 1960
Read twice and referred to the Committee on Interior and Insular Affairs

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For Department Staff Only)

Issued June 17, 1960
For actions of June 16, 1960
86th-2d, No. 110

CONTENTS

HIGHLIGHTS: Senate passed housing bill which includes continuation of farm-housing loans provision. Senate committee reported bills to continue extra long staple cotton quota and to provide for advance consultation with Interior regarding pesticide use. House committee voted to introduce clean bill on amendments to Public Law 480. House debated mutual security appropriation bill. Rep. Marshall criticized program for export of nonfat dry milk. House committee voted to report bill to increase minimum wage level.

SENATE

1. HOUSING; FARM LOANS. Passed, 64-16, with amendments S. 3670, the housing bill (pp. 11999, 12001-038). Agreed to an amendment by Sen. Capehart (concurred in by Sen. Sparkman) which "would extend the farm housing loan section to June 30, 1963, but would eliminate the $50 million in the bill, which I think we have discovered, since the bill was written, is not particularly needed for the next year" (p. 12013).

2. DEFENSE APPROPRIATION BILL, 1961. Passed with amendments this bill, H. R. 11998. pp. 11928-38, 11943-88, 11990-1

3. COTTON. The Agriculture and Forestry Committee reported with amendment H. R. 11646, to amend the act authorizing the Secretary of Agriculture to collect and publish statistics of the grade and staple length of cotton, by defining certain offenses in connection with the sampling of cotton for classification and

providing a penalty provision (S. Rept. 1595). p. 11894

4. EDUCATION. The Agriculture and Forestry Committee reported without amendment S. 3450, to amend section 22 (relating to the endowment and support of colleges of agriculture and the mechanic arts) of the act of June 29, 1935, to increase the appropriation authorization for resident teaching grants to land-grant institutions (S. Rept. 1596). p. 11894

5. FOREST LANDS. The Agriculture and Forestry Committee reported without amendment S. 3665, to authorize the Secretary of Agriculture to grant an easement over certain lands to the trustees of the Cincinnati Southern Railway (S. Rept. 1597). p. 11894

MARKETING QUOTAS.

6. ACREAGE ALLOTMENTS. The Agriculture and Forestry Committee reported with amendment S. 3117, to treat all basic agricultural commodities alike with respect to the cost of remeasuring acreage (S. Rept. 1598).

The Committee reported without amendment H. R. 12115, to extend the minimum national marketing quota for extra long staple cotton to the 1961 crop (S. Rept. 1599). p. 11894

7. FISH AND WILDLIFE; PESTICIDES. The Interstate and Commerce Committee reported with amendments S. 3473, to provide for advance consultation with the Fish and Wildlife Service and with State wildlife agencies before the beginning of any Federal program involving the use of pesticides or other chemicals designed for mass biological controls (S. Rept. 1601). p. 11894

8. LEGISLATIVE APPROPRIATION BILL, 1961. The Appropriations Committee reported with amendments this bill, H. R. 12232 (S. Rept. 1606). p. 11894

9. HOUSING; METROPOLITAN AFFAIRS. The Banking and Currency Committee reported with amendment S. 3292, to provide for the establishment of a Department of Housing and Metropolitan Affairs (S. Rept. 1607). p. 11894

10. PERSONNEL. Both Houses received from the Commerce Department a proposed bill to authorize an additional Assistant Secretary of Commerce; to Interstate and Foreign Commerce Committees. pp. 11893, 11891

11. PUBLIC LANDS Subcommittee of the Interior and Insular Affairs Committee approved for full committee consideration ~~S. J. Res. 95, to accelerate reforestation programs~~; H. R. 9142, to pay for lands heretofore conveyed to the U. S. as a basis for lieu selections; ~~H. R. 8740, to provide for leasing oil and gas~~ interests in certain U. S. lands to Texas; S. 2806, to revise Coronado Memorial boundaries; S. 2959, to clarify State rights to select certain public lands subject to any outstanding mineral lease or permit; and S. 3434, to facilitate Alaska's selection of certain public lands. p. D561

12. RECLMATION. Sen. Young, N. Dak., inserted a Reclamation Association statement criticizing some reclamation policies. pp. 11926-7

13. LEGISLATIVE PROGRAM. H. R. 9883, the Federal pay bill, was made the unfinished business (p. 12038).

Digest of CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For Department Staff Only)

Issued June 22, 1960
For actions of June 21, 1960
86th-2d, No. 114

CONTENTS

HIGHLIGHTS: House debated Poage farm bill. Senate committee voted to report bill to accelerate reforestation programs.

HOUSE

1. FARM PROGRAM. Began debate on H. R. 12261, the Poage farm bill (pp. 12602, 12606 47). Agreed to a Rules Committee resolution providing for 2 hours debate on the bill (pp. 12602, 12606-16). Rejected, 92 to 108, an amendment by Rep. Dixon which would have substituted the language of the Ellender wheat bill (S. 2759) as passed by the Senate for the language of the Poage bill (pp. 12634-46). Rejected an amendment by Rep. Levering to the amendment by Rep. Dixon which would have struck out a provision to reduce the 15-acre wheat exemption to 12 acres of the highest acreage planted during the 5-year period, 1956-60 (p. 12646).

2. UNEMPLOYMENT COMPENSATION; PERSONNEL. Both Houses passed without amendment H. J. Res. 765, providing a supplemental appropriation of $6 million to the Department of Labor for unemployment compensation for veterans and Federal employees. This measure will now be sent to the President. pp. 12589, 12570

3. PERSONNEL. The Post Office and Civil Service Committee reported with amendment S. 2575, to provide a health benefits program for certain retired employees of the Government (H. Rept. 1930). p. 12666

The Post Office and Civil Service Committee voted to report (but did not actually report) the following bills: p. D586

H. R. 12336, to amend the Classification Act of 1949 so as to preserve basic compensation in certain downgrading actions;

H. R. 6743, to provide for survivors' annuities in additional cases under the Civil Service Retirement Act;

H. R. 543, to amend the Classification Act of 1949 so as to provide a formula for guaranteeing a minimum increase when an employee is promoted from one grade to another.

The Rules Committee reported a resolution for consideration of H. R. 12383, to amend the Federal Employees' Compensation Act so as to make compensation benefits more realistic in terms of present wage rates. p. D586

4. VETERANS' LOANS. The Rules Committee reported a resolution for consideration of H. R. 7903, to extend the veterans' guaranteed and direct loan programs for two additional years. p. D586

5. CLAIMS; JUDGMENTS. A subcommittee of the Judiciary Committee voted to report to the full committee H. R. 9523, to simplify the payment of certain miscellaneous judgments and the payment of certain compromise settlements. p. D586

6. RADIOACTIVITY; TRANSPORTATION. A subcommittee of the Judiciary Committee voted to report to the full committee S. 1806, to revise the "Explosives and Combustibles" transportation chapter of the Criminal Code so as to include the transportation of radioactive materials and etiologic agents as an illegal act. p. D586

7. FLOOD CONTROL. Conferees were appointed on H. R. 7634, the omnibus flood control and rivers and harbors bill (p. 12590). Senate conferees have already been appointed.

8. PUBLIC DEBT; TAXATION. Conferees were appointed on H. R. 12381, to extend for 1 year the public debt limit and the existing corporate normal-tax rate and certain excise-tax rates (p. 12601). Senate conferees have been appointed.

9. LABOR-HEW APPROPRIATION BILL, 1961. Conferees were appointed on this bill, H. R. 11390 (p. 12647). Senate conferees have already been appointed.

SENATE

10. FORESTRY. The Interior and Insular Affairs Committee voted to report (but did not actually report) S. J. Res. 95, providing for the acceleration of reforestation programs of this Department and the Department of the Interior. p. D583

11. LANDS. The Interior and Insular Affairs Committee reported the following bills: p. 12576

~~H. R. 8740, without amendment, to provide for the leasing of oil and gas interests in certain lands owned by the U. S. in Texas (S. Rept. 1637);~~

~~S. 3267, without amendment, to amend the Act of October 17, 1940, relating to the disposition of certain public lands in Alaska (S. Rept. 1628);~~

H. R. 9142, without amendment, to provide for the payment of claims of persons who conveyed lands to the U. S. as a basis for lieu selections under the Act of June 4, 1897, and who have not heretofore received the lieu selection or a reconveyance of their lands (S. Rept. 1639);

86TH CONGRESS
2d Session

SENATE

Calendar No. 1697

REPORT
No. 1639

PROVIDING FOR PAYMENT FOR LANDS HERETOFORE CONVEYED TO THE UNITED STATES AS A BASIS FOR LIEU SELECTIONS FROM THE PUBLIC DOMAIN

JUNE 21, 1960.—Ordered to be printed

Mr. KUCHEL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 9142]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 9142) to provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The principal purposes of H.R. 9142 are (1) to provide compensation for land conveyed or relinquished to the United States during the years 1897–1905 under the act of June 4, 1897 (30 Stat. 11, 36), in cases in which the lieu lands or other rights which the owners were entitled to receive under this 1897 act and supplementary legislation have not already been given them; (2) to make inapplicable to the owners, their heirs and assigns a later provision of law directing the Secretary of the Interior, upon request, to return the original lands; and (3) thus to correct defects in the law under which such parties are now laying claim to valuable lands within the national forests and parks and taking them out of Federal ownership.

NEED

At hearings held by the House Subcommittee on Public Lands in Fresno, Calif., and in Washington, it was learned that there is a considerable acreage of land, mostly within the national forests and parks, which was relinquished or conveyed to the United States under the 1897 act but with respect to which the lieu selections there authorized were never completed. Estimates of the land involved ranged from 25,000 to 100,000 acres. Some of the tracts were identified at the hearings as among the choicest in the Sierra and Sequoia National Forests and in the Sequoia and Kings Canyon National Parks.

It also developed at the hearings that certain persons have, in recent years, been making a practice of acquiring, from the original landowner or from one or more of his heirs, quitclaims, assignments, or other forms of transfer of rights supposedly retained in the conveyed or relinquished land. The recorded deeds and other instruments in favor of the United States are regarded by these persons as, at most, a "blur" or cloud on the original title; with the assignment in hand and after various intermediate steps (sometimes involving uncontested, quiet title suits, demands upon local taxing officials to be coassessed as an owner of the land, and similar actions to which the United States is not a party), demand is made upon the Interior Department for reconveyance of the land under the act of April 28, 1930 (46 Stat. 257), which, in pertinent part, reads as follows:

> Where a conveyance of land has been made * * * to the United States in connection with an application for * * * an exchange of lands * * *, and the application in connection with which the conveyance was made is thereafter withdrawn or rejected, the Commissioner of the General Land Office [now the Bureau of Land Management] is hereby authorized and directed, if the deed of conveyance has been recorded, to execute a quitclaim deed of the conveyed property to the party or parties entitled thereto.

Others have made it a practice to offer to aid the heirs in return for a percentage of any proceeds derived from the land when it is returned to them. The Department of the Interior has, after necessary investigations of the validity of the claims made upon it under the 1930 act, been reconveying the lands demanded. From March 1954 to August 1959 there were 71 such reconveyances, involving a total of nearly 14,500 acres.

The situation, particularly in California and other parts of the Southwest, has reached what the public press, conservation interests, and others regard as being virtually a "give-away" of public resources approaching a scandal. The committee concurs in this view and believes that enactment of H.R. 9142 is both justifiable and necessary in the circumstances, and that though it will require the expenditure of funds for lands which have been in Government ownership and possession for anywhere from 55 to 63 years, this expenditure will be far cheaper in the long run, in terms both of dollars and of the public values involved, than continuation of the present system.

DISCUSSION

The 1897 act provided that—

> in cases in which a tract covered by an unperfected bona fide claim or by a patent is included within the limits of a public forest reservation, the settler or owner thereof may, if he desires to do so, relinquish the tract to the Government, and may select in lieu thereof a tract of vacant land open to settlement not exceeding in area the tract covered by his claim or patent * * *.

This act was amended by the acts of June 6, 1900 (30 Stat. 588, 641), and March 3, 1901 (31 Stat. 1010, 1037), to limit the permissible lieu selections to—

> vacant surveyed nonmineral public lands which are subject to homestead entry

and was repealed by the act of March 3, 1905 (33 Stat. 1264). The last-named act saved, however—

> the validity of contracts entered into by the Secretary of the Interior prior to the passage of this Act.

and provided, further, that—

> selections heretofore made in lieu of lands relinquished to the United States may be perfected and patents issue therefor the same as though this Act had not been passed, and if for any reason not the fault of the party making the same any pending selection is held invalid another selection for a like quantity of land may be made in lieu thereof.

None of these acts contained any provision for reconveyance of the relinquished lands and the 1905 act, as is evident, treated the conveyor's rights as contractual rather than proprietary in nature. It was not until the act of September 22, 1922 (42 Stat. 1017), became law that there was authority for the Secretary of the Interior to make a reconveyance and this was limited to applications for reconveyance made before September 22, 1927. The 1930 act, which covers a large

variety of situations, reopened the possibility of reconveyances. There is nothing in the history of the bill that became this act to indicate any awareness of its effect upon or applicability to the old forest lieu selections problem.

In view of the earlier legislation, the 1922 and 1930 acts must, at least so far as reconveyances are concerned, be regarded as acts of grace on the part of Congress which vested no permanent or irrevocable right to a reconveyance in their beneficiaries. Enactment of H.R. 9142 will thus, in effect, restore the legal situation to what it was before these acts became law except as to lands which have been returned to private ownership in the meantime.

The committee recognizes that there has been a drastic reduction in the land available for lieu selections since enactment of the 1897 act. Millions of acres have gone into private ownership or have been withdrawn or covered into reservations since that time. It seems proper, therefore, that provision be made, as proposed in H.R. 9142, for payment to those who are precluded from exercising their original lieu selection rights, since it was never intended that the conveyed or relinquished lands should be a donation to the Government. The price to be paid ($1.25 per acre) was the going price of public lands generally at the time the base lands were relinquished. The interest payment proposed in the bill, as amended, commends itself to the committee as being reasonable and fair both to the original owner and to the Government.

The committee also recognizes that it has been held in some judicial decisions that until there had been an acceptance of the base lands by the Secretary of the Interior no rights accrued under the 1897 act. (For examples see *Roughton* v. *Knight*, 219 U.S. 537, 547 (1911); *Daniels* v. *Wagner*, 205 Fed. 235 (C.C.A. 9th, 1913).) Understandable as this position was, as of the time and in the light of the circumstances in which it was taken, the committee does not understand or believe that after a lapse of 60 years during which the Forest Service, the National Park Service, and other Government agencies have administered these lands and Congress has appropriated funds for their management, improvement, and protection, there can any longer be doubt that they have been, in law as in fact, fully accepted by the Government and that the former owners' claims to continued ownership are without merit or equity. The committee notes that the Department of Justice has examined the bill and reports that it—

> is not aware of any basis on which claims could be justified for compensation under the fifth amendment of the Constitution.

The committee agrees with this view and notes, further, that a continuation of the present system may well result in unjust enrichment of speculators whose contentions in this respect are worthless in terms of any usual standards or law or equity.

The committee was informed at its hearings that a few parcels of land which were conveyed or relinquished to the United States under the 1897 act have been disposed of and are in the hands of private owners and that these owners have been harassed by suits undertaken by assignees of the original landowners. Enactment of H.R. 9142 will afford the same protection and rights with respect to these lands as it does with respect to those that the United States continues to own and possess.

Question was raised in the committee hearings and discussion whether there still is, and whether there ought to continue to be, a right to select lieu lands for those conveyed in 1897–1905. The committee has not attempted to resolve these questions since they do not affect the principal problem with which H.R. 9142 is concerned.

COST

Estimates of the cost to the Government of making the payments authorized by H.R. 9142 depend on the acreage for which claim is made within the 1-year period provided in the bill. Assuming that claim is made for the maximum acreage on which the committee heard testimony (100,000 acres) at $1.25 per acre with simple interest at 4 percent for 60 years, the cost would be $425,000 plus administrative expenses. The chances are very great, however, that claims will be made on far less than 100,000 acres and that, in accordance with the provisions of the bill, the interest period will not extend over nearly the full 60-year period. The committee estimates, therefore, that the cost will not exceed $200,000 plus administrative expenses.

COMMITTEE AMENDMENTS

The House committee received valuable suggestions for amendment of the bill from the General Accounting Office, the Department of Agriculture, the Department of the Interior, and the Department of Justice, and has adopted nearly all of them. The most important are these:

(1) Elimination of the provision in the original bill for payment of compound interest, at the recommendation of the General Accounting Office. This will drastically reduce the cost to the Government below the estimates made by that Office and will still afford fair and equitable compensation to the original landowner and his heirs.

(2) Inclusion of a provision, at the suggestion of the Department of Justice, to the effect that acceptance of the payment provided for in the bill shall be a full settlement of all claims which the acceptor may have arising out of the original conveyance or relinquishment.

(3) Inclusion of a provision, at the suggestion of the Departments of Agriculture and the Interior, to make certain that the lands in question will be administered in accordance with the laws governing the Federal area in which they are situated. In nearly all instances these will be the laws governing national parks or national forests. No special administrative problems, such as new or added payments in lieu of taxes other than what are already provided for by law, will be involved.

Other amendments adopted by the committee are perfecting in nature.

DEPARTMENTAL REPORTS

The reports of the Departments of Justice, Agriculture, and the Interior, and the General Accounting Office are favorable. They follow:

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., February 25, 1960.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H.R. 9142) to provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

The bill would direct that a sum of $1.25 per acre with interest at the rate of 4 percent, compounded, be paid upon written demand to the Secretary of the Interior within 1 year to each person who conveyed land to the United States as a basis for a lieu selection of public land pursuant to the act of June 4, 1897 (30 Stat. 11, 36), as amended, repealed or supplemented by the acts of June 6, 1900 (31 Stat. 588, 614), March 3, 1901 (31 Stat. 1010, 1037), March 3, 1905 (33 Stat. 1264), September 22, 1922 (49 Stat. 1017; 16 U.S.C. 483–486), April 28, 1930 (46 Stat. 257, sec. 6; 43 U.S.C. 873), and the act of August 5, 1955 (69 Stat. 534). The bill would not apply where lieu selections, reconveyance, or authority to cut and remove timber had been made. Assignees as well as heirs and devisees of the grantors would be entitled to the benefits of the bill.

Repeal of the act of September 22, 1922, would be effected by the bill. The 1922 act, among other things, authorized the Secretary of the Interior with the approval of the Secretary of Agriculture "to accept title to such of the base lands as are desirable for national forest purposes," which lands had been relinquished to the United States in a national forest as a basis for a lieu selection under the 1897 act but the grantors had either failed to record their lieu selections prior to the 1905 act repealing the 1897 act or had had their lieu selections rejected. In exchange for such land, the 1922 act authorized the Secretary of Agriculture to issue a patent for not to exceed an equal value of forest land, unoccupied, surveyed and nonmineral in character or to permit the cutting and removal of an equal value of timber within the national forests of the same State. Where an exchange could not be agreed upon, the Commissioner of the General Land Office was authorized to relinquish and quitclaim "all title to such lands which the respective relinquishments of such person or persons may have vested in the United States." A limitation of 5 years was imposed for furnishing proof.

The bill also would provide that no reconveyance of lands to which section 1 thereof applies shall hereafter be made under section 6 of the act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872).

The subject of this legislation is not a matter for which the Department of Justice has primary responsibility, and accordingly we make no recommendation as to the enactment of the bill. However, while the Department of Justice is not aware of any basis on which claims

could be justified for compensation under the fifth amendment of the Constitution, it might be advisable to provide in the bill that acceptance of payment thereunder shall be in full and complete settlement of any and all claims arising out of the relinquishment of lands to the United States.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

(Signed) LAWRENCE E. WALSH,
Deputy Attorney General.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., October 14, 1959.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR CONGRESSMAN ASPINALL: This is in response to your request of September 10, 1959, for our report on H.R. 9142, a bill to provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

We favor enactment of legislation to accomplish the purposes of H.R. 9142.

H.R. 9142 would require the Secretary of the Interior to certify to the General Accounting Office claims of persons who conveyed lands to the United States as a basis for lieu selections under the act of June 4, 1897 (30 Stat. 11, 36), as amended, and who have not heretofore received the lieu selection or a reconveyance of their lands. Persons having valid claims would be paid $1.25 per acre with interest. The right to receive payment would not be assignable. Applications would have to be filed within 1 year. The term "person who conveyed lands to the United States" would include the heirs or devisees of such person and any other person to whom he or his heirs or devisees lawfully assigned their right before the date of the act. Attorneys would not be authorized to receive more than 10 percent of payments.

H.R. 9142 would also repeal the act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483), and would provide that no reconveyance of such lands shall hereafter be made under section 6 of the act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872).

The situations to which H.R. 9142 are directed arise from the following circumstances:

A provision in the June 4, 1897, act authorized the owner of an unperfected bona fide claim or a tract of patented land within the limits of a national forest to relinquish or reconvey such tract to the United States and select in lieu thereof an equal acreage of vacant public land open to settlement. The March 3, 1905, act repealed this lieu selection authorization but protected valid contracts and selections previously made. The September 22, 1922, act provided that where a person or persons in good faith relinquished lands to the United States under the 1897 act but failed to place their lieu selections of record prior to the repealing act of 1905 or such lieu selections were rejected, the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of the grantor, could accept title

to the relinquished lands for national forest purposes and in exchange patent not to exceed an equal value of national forest lands, or the Secretary of Agriculture could allow the grantor to cut and remove an equal value of timber within the national forests of the same State. Where such an exchange was not agreed upon, reconveyance by quitclaim deed of the lands conveyed to the United States was authorized. Satisfactory proof of the relinquishment of the lands to the United States had to be filed within 5 years of the date of the act.

Section 6 of the April 28, 1930, act provides that where a conveyance of land has been made or may hereafter be made to the United States in connection with an application for amendment of a patented entry, or an exhange of lands, or for any other purpose, and the application in connection with which the conveyance was made is hereafter withdrawn or rejected, the Secretary of the Interior is authorized and directed, if the deed of conveyance has been recorded, to execute a quitclaim deed to the conveyed land to the party or parties entitled thereto.

Under the 1897 act, as amended and supplemented, numerous lieu selections were made and completed. The lands so conveyed to the United States became parts of the national forests within which they were situated. However, in some cases lieu selections were either not filed or not carried through to completion. Deeds conveying the privately owned lands within the national forests were executed and placed of record in the county wherein the lands were situated. For various reasons the grantors failed to follow through and obtain lieu lands. Some of the grantors exercised the privileges granted by the September 22, 1922, act; others did not. As a result, there are scattered among national forest lands in several western States, tracts of land to which there is a record title in the United States but as to which the United States has not accepted title or conveyed the lieu lands or other consideration. Due to the complexity of the records and the fact that the conveyances to the United States occurred 55 to 60 years ago, the correct status of many of these lands has become obscured.

The lands in this category have stood on the public records in the name of the United States for about half a century. The lands were all originally within national forest boundaries, but some are now within national parks. Scattered as they are among national forest or national park land, the Government, to protect its adjoining property, has had to extend fire protection to them. The grantors or their successors have been given ample opportunities to bring these transactions to a conclusion and to obtain either other lands, timber-cutting rights, or a reconveyance of the tracts. With few exceptions, and most of these within recent years, no claims have been made to these lands during all this period, with no acts of control, or protection of the lands, or other normal acts of ownership or responsibility being exercised by the former grantors or their successors. Because the lands are shown on the local county records in the name of the United States, most of them have not been on either local or State tax rolls during the nearly 55 to 60 years since the deed to the United States was placed of record. Most of the grantors are probably dead and in many instances their legal successors in interest are widely scattered or not known.

In these circumstances, this Department believes that the title to these lands should be confirmed in the United States, with provision

for such compensation to the grantors or their successors in interest as Congress finds equitable.

We recommend that a provision be added to the bill to specify that the land shall be part of the national forests or national parks within which they are located.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

(Signed) TRUE D. MORSE,
Acting Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., January 27, 1960.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. ASPINALL: This is in reply to your request for the views of this Department on H.R. 9142, a bill to provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

We recommend that H.R. 9142 be enacted, if amended as suggested below.

It was provided in the act of June 4, 1897 (30 Stat. 11, 36), that whenever a tract covered by an unperfected bona fide claim or by a patent was included within the limits of a public forest reservation the settler or owner might, if he wished, relinquish the tract to the United States and in lieu of that relinquished tract select a tract of vacant land open to settlement which did not exceed in area the relinquished tract. This statutory provision was supplemented by the act of June 6, 1900 (31 Stat. 588, 614), and the act of March 3, 1901 (31 Stat. 1010, 1037). However, the act of March 3, 1905 (33 Stat. 1264), repealed the statutory provision permitting the relinquishment of land and the selection and patenting of other lands in lieu thereof, although it protected the validity of contracts entered into by the Secretary of the Interior prior to its passage. Consequently, after 1905 it was not possible for a party, asserting a claim or holding a patent to lands within a forest, to relinquish the lands to the United States and obtain other lands in lieu thereof, unless he had initiated his action prior to March 3, 1905.

Section 1 of the act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483), provided that any person who had relinquished lands in a national forest in good faith under the 1897 act as a basis for a lieu selection might apply to the Secretary of the Interior, and the Secretary with the approval of the Secretary of Agriculture was authorized to accept title to those base lands deemed desirable for national forest purposes and to grant in exchange an equal value of national forest land which was unoccupied, surveyed, and nonmineral in character, or the Secretary of Agriculture was authorized to permit the grantor to cut and remove an equal value of timber within a national forest within the same State. Where an exchange could not at agreed upon, the Secretary of the Interior was authorized to reconvey to the party all the U.S. title to the lands which the party had conveyed. How-

ever, the statute required that parties wishing to come under its provisions show within 5 years of the date of enactment that they had relinquished the lands to the United States. Where the relinquished lands had been appropriated to a public use other than the general purpose for which the national forest within the boundaries of which they were situated had been created, the U.S. interest could be reconveyed only with the consent of the head of the agency having jurisdiction. Where this consent was not given, or the relinquished lands had been otherwise disposed of by the United States, lieu selection rights similar to those under the 1897 act were granted, provided that an application to make such a selection was filed not more than 3 years after the date of the 1922 act.

The 1922 act was probably intended to bring the forest lieu selection program to a final conclusion since while it provided for the completion of lieu selections or for the reconveyance of the base land under certain conditions, it established a definite time limit within which applicants had to act. Probably the Department could not properly consent to a reconveyance under the 1922 act of relinquished lands which the Congress had appropriated for national park purposes. The Court of Appeals of the District of Columbia stated that this was not a taking without just compensation since the party conveying the lands to the United States had a right to make a further lieu selection if he acted within the prescribed time. A late filing precluded any further selection rights, and the landowner lost all further right to compensation under that act (*Work* v. *Peale*, 26 F. (2d) 1002 (D.C. 1928)).

After the 5-year period under the 1922 act had expired, there was passed the act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872), section 6 of which directed the Secretary of the Interior to reconvey land which had been granted to the United States as the basis for an exchange of lands, or for any other purpose, upon the withdrawal or rejection of the application in connection with which the land had been conveyed to the United States. In this manner the 1930 act once again authorized the reconveyance of relinquished land, a practice which had apparently been brought to a definite conclusion some years before. There was no reference in the text of that statute to lands which had been disposed of or appropriated to another purpose. The precise effect of the 1930 act on such a situation has not been the subject of any judicial or departmental decision.

H.R. 9142 would repeal the 1922 act and direct that there be no more reconveyances under section 6 of the 1930 act, and would say that any party who had not received his lieu selection or a reconveyance of the lands which he had conveyed to the United States, or who had not received authority to cut and remove timber, might apply to the Secretary of the Interior within 1 year and receive the sum of $1.25 per acre for the lands conveyed by him to the United States. This payment would be made with 4 percent interest, compounded from the date on which that party had last applied for a lieu selection, reconveyance, or authority to cut timber. The right to receive payment under H.R. 9142 would not be assignable, although payment could be made to a party to whom a right to a lieu selection, reconveyance, or authority to cut timber had been assigned prior to the date of enactment of H.R. 9142.

Under the 1930 act over 27,000 acres have been reconveyed, while some 18,000 acres were reconveyed under the 1922 act. How much

more land would be subject to reconveyance upon proper application is uncertain at this time. We do know that under the recordation provisions of the act of August 15, 1955 (69 Stat. 534, 535), there are of record 61 pieces of scrip covering approximately 5,073 acres, and at this time there are 3 applications for further selections of approximately 482 acres. There are pending at this time under the 1930 act 15 requests for reconveyance, covering approximately 15,162 acres.

Fifty-four years have now passed since the last lands were relinquished under the 1897 act. The majority of the lands relinquished under that act have formed the basis for completed lieu selections. Some lieu selections, however, were not filed or for some reason were not carried to completion, but, nevertheless, the deeds conveying the private lands to the Government were executed and placed on the records. Some of the grantors took advantage of the 1922 act but others did not, and as a result there are scattered through the national forests in the Western States tracts of land to which the United States holds record title by reason of the old conveyances but for which parties may yet apply for reconveyance under the 1930 act. Some of these lands are now included in national parks which were created out of national forests. Some of these lands are of vital importance in the management of the national forests and the national parks. It is certainly true that parties with a right to demand a reconveyance of land have had a great deal of time in which to make application, more than 29 years by now since the last statute was passed. It would seem just and proper, therefore, that the essential interests of the Federal Government be protected by depriving parties of a further right to demand reconveyance. In this manner H.R. 9142 partakes of the nature of a statute of limitations, cutting off unexercised rights, but allowing an additional year within which compensation for those rights may be obtained.

There is no apparent reason to continue the existing right to demand reconveyance. Most of the individual grantors are now dead and their successors in interest are widely scattered or not even known. The title to these tracts is carried on local county records as being in the United States and not many of the original grantors or their successors have paid taxes on them. With the equitable owners unknown and the tracts mingled with federally owned land, the Government has provided fire protection and the administration which an owner normally provides for land during the 54 years that have elapsed since the lands were relinquished, and the grantors and their successors in interest have not performed the normal acts of ownership and responsibilities.

We have reason to believe that many of the persons now requesting reconveyances have acquired their interests only in the last few years. Under any circumstances it may be said that the original claimants have slept on their rights.

Thus we see little equitable justification for the continuance of the right to reconveyances. Continued possession of the land is vital to the interests of the Federal Government. It is to the interest of the United States that the question of the title to the relinquished lands be settled, and that title be firmly vested in the United States for the better management of the national forests and the national parks. Accordingly, we recommend the enactment of H.R. 9142.

Nevertheless, we recognize that the enactment of the bill might be held to void an existing property right; i.e., the right to the recon-

veyance of certain lands. In exchange for the canceled right the bill provides a payment of $1.25 per acre with interest. We take no position on the adequacy of this compensation. We do suggest, however, that because of the possible application of the fifth amendment of the U.S. Constitution, which provides that property shall not "be taken for public use, without just compensation," the views of the Department of Justice be requested on this aspect of the measure.

We also suggest certain clarifying amendments to H.R. 9142. There should be a reference to the act of September 22, 1922, in section 1. Accordingly, we recommend the deletion of the word "and" at page 1, line 10, and the insertion after the comma in the middle of page 2, line 1, of the words "and the Act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483)". The word "or" at page 2, line 2, should be deleted and the words "or other benefits" should be inserted at line 3 before the word "as". Finally, we suggest that the word "valid" be substituted for the word "proper" at page 2, line 5, since valid is the adjective normally used with respect to a claim which has been filed on time and which is substantiated by the record evidence. To keep section 2 consistent with section 1, as we would have it amended, the word "or" at page 3, line 1, should be deleted, and the phrase ", or other benefits" should be inserted after "timber" at page 3, line 2. We also recommend the addition of a new section to assure that the lands subject to H.R. 9142 will be made subject to the laws governing the areas within which they are embraced. This section should provide:

"SEC. 4. Any land for which the United States makes payment under section 1 of this Act, or any land for which it might make payment thereunder upon application by the proper party, but for which no demand is made, shall be a part of the national forest, national park, or other area within the boundaries of which it is embraced, shall be administered as a part thereof, and shall be subject to the laws, rules, and regulations applicable to land set apart and reserved from the public domain in that national forest, national park, or other area."

It is difficult to determine what the eventual cost of this legislation might prove to be. The Bureau of Land Management of this Department has stated that a reasonable estimate of the outstanding acreage for which demand could be made would be between 25,000 and 100,000 acres. The interest could be charged under the provisions of H.R. 9142 for periods ranging from 1 to 62 years. If a relinquishment was recorded prior to March 3, 1905, but no selection was ever filed, interest would be payable only from the date of approval of H.R. 9142. If the relinquishment was recorded between June 4, 1897, and March 3, 1905, and a selection was filed and rejected during that period, the interest period would be from 54 to 62 years. There are innumerable other possible periods of time which may have elapsed since the last application for a lieu selection, a reconveyance, or authority to cut timber. If the acreage involved is 25,000 acres, and the maximum period of time is 62 years, the maximum sum of $1.25 per acre compounded annually at 4 percent would amount to $355,562; if the acreage involved is 100,000 acres, the sum would be $1,422,248. This, of course, is the absolute maximum possible cost under the provisions of H.R. 9142. As we have pointed out above, however, we believe that the Department of Justice should be consulted on the question of compensation.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

ROGER ERNST,
Acting Secretary of the Interior.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, November 2, 1959.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: Your letter of September 10, 1959, acknowledged September 11, requests our comments on H.R. 9142.

The bill provides for settlement of certain claims of persons who have heretofore conveyed lands to the United States as a basis for lieu selections pursuant to the act of June 4, 1897 (30 Stat. 11, 36), as amended and supplemented by the acts of June 6, 1900 (31 Stat. 588, 614), March 3, 1901 (31 Stat 1010, 1337), and March 3, 1905 (33 Stat. 1264). Payment would be authorized at the rate of $1.25 per acre with interest at the rate of 4 percent per annum compounded annually. The bill would bring to a conclusion all unresolved claims and rights under the statutes therein cited.

The enactment of legislation of this character is a matter of congressional policy on which we express no opinion. However, we do wish to comment concerning the interest to be paid. In effect, the act of June 4, 1897, allowed the owner of a patented tract of land or a settler on an unperfected bona fide claim within the limits of Federal forests to relinquish his tract to the United States and to select in lieu thereof a similar tract of vacant land open to settlement. The 1900 and 1901 acts required these in lieu selections to be confined to vacant, surveyed, nonmineral public lands which were subject to homestead entry. The 1905 act repealed the 1897, 1900, and 1901 acts with the proviso that (1) in lieu selections theretofore made could be perfected and patents issued and (2) the validity of contracts entered into prior to its enactment should remain unimpaired.

The 1905 statute in many cases precluded in lieu selections on conveyances to the Government prior thereto relative to which no selection had been made. This resulted in clouded titles with respect to these lands. To correct this condition the Congress passed the act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483). This statute authorized any person or persons who in good faith relinquished lands in a national forest under the 1897 act and failed to get their lieu selections recorded prior to enactment of the 1905 act or whose lieu selections, though duly filed, were rejected, to make new selections. In such event, the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of such person or persons, his heirs or assigns, was authorized to accept title to such of the base lands as might be desirable for national forest purposes, and in exchange therefor to—

(1) issue patent for not to exceed an equal value of national forest land, unoccupied, surveyed, and nonmineral in character, or

(2) the Secretary of Agriculture could authorize the grantor to cut and remove an equal value of timber within the national forests of the same State.

The 1922 act further provided that where an exchange could not be agreed upon, the Commissioner of the General Land Office could relinquish and quitclaim to such person or persons, their heirs or assigns, all title which the United States might have in such lands. The proof of relinquishment was required to be made within 5 years after enactment of the statute.

Section 2 of the act provided that if the relinquished lands had been disposed of or appropriated to public use, other than the general purposes for which the national forests in which they were situated were created, such lands could not be relinquished and quitclaimed, in the absence of consent by the head of the department having jurisdiction thereof. In the event of failure of such consent or in the event of prior conveyance of the land by the United States, other surveyed, nonmineral, unoccupied, unreserved public lands of approximately equal area and value could be selected and patented in lieu of the lands so appropriated or disposed of in the manner and subject to the terms and conditions prescribed by the 1897 act and regulations issued thereunder. Applications to make such lieu selections were required to be filed in the General Land Office within 3 years after the date of the act.

Apparently the 1922 act was intended, by reason of the statutes of limitation therein provided, to bring to a conclusion all activities authorized under the 1897 act and subsequent in lieu acts, and to provide for the settlement of all claims arising thereunder. It appears, however, that many claimants under the in lieu statutes failed to make timely applications under the 1922 statute. This resulted in enactment of section 6 of the act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872). Section 6 directs the Secretary of the Interior to execute a quitclaim deed to the parties entitled thereto where a conveyance of land has been, or may thereafter be, made to the United States incident to an exchange of lands or for any other purposes and where the application incident to such conveyance is thereafter withdrawn or rejected.

The Bureau of Land Management (BLM) has informed us that prior to the 1930 act a rule had been followed whereby any appropriation of land conveyed for in lieu purposes would preclude the issuance of a quitclaim title to the tract to its grantor (citing 50 L.D. 660) and that after the enactment of section 6 of this act the Bureau has operated on the basis that it was mandatory to execute a quitclaim deed of the conveyed land to the party entitled thereto notwithstanding its prior appropriation. A decision by the Assistant Secretary of the Interior, A–14858, dated September 30, 1930, was cited in support of this view. H.R. 9142 is intended to close out, finally and conclusively, all rights created in these and other grantors of lands which were conveyed pursuant to the above statutory provisions.

No accurate estimate of the cost of H.R. 9142 can be made. We have been informed by BLM that the amount of valid forest in lieu selection acreage which could form a basis for further selection can only be determined as each individual case is presented. The record indicates that under the recordation provisions of the act of August 5, 1955 (69 Stat. 534, 535), BLM has of record 61 pieces of recorded scrip approximating 5,073 acres. Also, BLM currently is considering 3 additional applications for further selection approximating 482 acres and 15 requests for reconveyances involving approximately 15,162

acres under section 6 of the 1930 act. The dates of the applications involved incident to this acreage have not been compiled and the compounded interest cost allowable under section 1 of H.R. 9142 therefore cannot be computed.

BLM has indicated that a reasonable estimate for outstanding conveyed acreage for which demand could be made under the proposed legislation, based upon its experience with the lieu acts, would be between 25,000 and 100,000 acres. A BLM schedule prepared upon this premise and based upon five interest periods considered possible under H.R. 9142 indicates a minimum possible cost of $32,500 under section 1 and a maximum cost of $1,422,248. In our opinion these estimates are valueless as a determination of reasonable costs because of the probable large variance of application dates which must be considered for compounded interest purposes incident to the applications presently being considered and those on future claims made possible thereunder. Since the compounded interest allowable makes up such a substantial portion of these costs we believe that costs must be based upon the reasonable average age of the claimant's applications. So far as we are aware this information is not available.

As heretofore indicated section 1 of the bill would allow a claimant interest on the value of his conveyance "at the rate of 4 per centum per annum compounded annually, from the date on which application was last made." Payment of interest on this basis might represent the major cost to the Government under the bill. In the aforementioned BLM schedule the possible ages of in lieu applications involved in the bill are shown to be from 1 to 62 years. The compounding of interest would increase a claimant's basic claim elevenfold in 62 years, 8 times in 54 years, 4 times in 37 years, and about threefold in 29 years. We believe that the proposed allowance of compound interest as proposed in the bill is without precedent with respect to claims against the United States. For example, in condemnation proceedings authorized under 42 U.S.C. 159a(c) interest is allowable under prevailing law at the rate of 4 percent per annum on unpaid balances due the owner of the property taken and under the Declaration of Taking Act of February 26, 1931 (46 Stat. 1421; 40 U.S.C. 258a), interest is allowable at the rate of 6 percent on the excess award for the land taken over the deposit. Simple interest on judgments is allowable from the date of entry of the judgment until paid (28 U.S.C. 2071, rule 56; 46 U.S.C. 742, 745). Similarly, simple interest is allowable on taxes overpaid and judgments therefor (28 U.S.C. 2411) and on tort claims reduced to judgment (28 U.S.C. 2674).

Since H.R. 9142 generally would operate to revive claims and rights otherwise lost and since the bill proposes to compensate for takings not presently compensable under prior statutes, we are of the view that, if interest is to be allowed, it should be simple interest commencing at the date of taking (application) to date of payment rather than compound interest.

Sincerely yours,

(Signed) FRANK H. WEITZEL,
Assistant Comptroller General of the United States.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends the enactment of H.R. 9142.

CHANGES IN EXISTING LAW

In compliance with clause 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF SEPTEMBER 22, 1922 (42 STAT. 1017; 16 U.S.C. 483)

[Where any person or persons in good faith relinquished to the United States lands in a national forest as a basis for a lieu selection under the Act of June 4, 1897 (Thirtieth Statutes at Large, pages 11, 36), and failed to get their lieu selections of record prior to the passage of the Act of March 3, 1905 (Thirty-third Statutes at Large, page 1264), or whose lieu selections, though duly filed, are finally rejected, the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of such person or persons, their heirs or assigns, is authorized to accept title to such of the base lands as are desirable for national forest purposes, which lands shall thereupon become parts of the nearest national forest, and, in exchange therefor, may issue patent for not to exceed an equal value of national forest land, unoccupied, surveyed, and nonmineral in character, or the Secretary of Agriculture may authorize the grantor to cut and remove an equal value of timber within the national forests of the same State. Where an exchange cannot be agreed upon the Secretary of the Interior or such officer as he may designate is hereby authorized to relinquish and quitclaim to such person or persons, their heirs or assigns, all title to such lands which the respective relinquishments of such person or persons may have vested in the United States: *Provided,* That such person or persons, their heirs or assigns, shall, within five years after the date of this Act, make satisfactory proof of the relinquishment of such lands to the United States by submitting to the Secretary of the Interior or such officer as he may designate an abstract of title to such lands showing relinquishment of the same to the United States, which abstract or abstracts shall be retained in the files of the Bureau of Land Management.

[SEC. 2. That if it shall appear that any of the lands relinquished to the United States for the purpose stated in the preceding section have been disposed of or appropriated to a public use, other than the general purposes for which the national forest within the bounds of which they are situate was created, such lands shall not be relinquished and quitclaimed as provided therein, unless the head of the department having jurisdiction over the lands shall consent to such relinquishment; and if he shall fail to so consent, or if any of the lands so relinquished have been otherwise disposed of by the United States, other surveyed, nonmineral, unoccupied, unreserved public lands of approximately equal area and value may be selected and patented in lieu of the lands so appropriated or disposed of in the manner and subject to the terms and conditions prescribed by said Act of June 4, 1897, and the regulations issued thereunder: *Provided,* That applications to make such lieu selections must be filed in the Bureau of Land Management within three years after the date of this Act.]

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Calendar No. 1697

86TH CONGRESS
2D SESSION

H. R. 9142

[Report No. 1639]

IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 5), 1960
Read twice and referred to the Committee on Interior and Insular Affairs

JUNE 21, 1960
Reported by Mr. KUCHEL, without amendment

AN ACT

To provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall certify to the General Accounting Office for audit the claim of any person who relinquished or conveyed lands to the United States as a basis for a lieu selection in accordance with the provisions of the fifteenth paragraph under the heading "Surveying the Public Lands" in the Act of June 4, 1897 (30 Stat. 11, 36), as amended and supplemented by the Acts of June 6, 1900 (31 Stat. 588, 614), March 3, 1901 (31 Stat. 1010, 1037),

March 3, 1905 (33 Stat. 1264) and the Act of September 22, 1922 (42 Stat. 1067, 16 U.S.C. 483), and who has not heretofore received his lieu selection, a reconveyance of his lands, or authority to cut and remove timber, as provided by law, and there shall be paid to each such person whose claim is found to be valid the sum of $1.25 per acre for the lands conveyed by him to the United States with interest thereon at the rate of 4 per centum per annum, from the date on which application was last made by said person for a lieu selection, for reconveyance, or for authority to cut and remove timber or, if no such application has been made, from the date of this Act. Said payment shall be made from moneys appropriated under the heading "Claims for Damages, Audited Claims, and Judgments," and acceptance thereof shall constitute a full and complete satisfaction of all claims which the person to whom payment is made may have against the United States arising from the transaction in connection with which the payment is made. No person shall receive, or be entitled to receive, payment under this Act except upon demand therefor made in writing to the Secretary, or any officer of the Department of the Interior to whom the Secretary delegates authority to receive such demand, within one year from the date of this Act.

SEC. 2. (a) The right to receive payment under this Act shall not be assignable.

(b) For purposes of payment under this Act, the term "person who conveyed lands to the United States" includes (i) the heirs and devisees of any such person and (ii) any other person to whom he or his heirs or devisees lawfully assigned, before enactment of this Act, their right to a lieu selection or a reconveyance, or their right to receive authority to cut and remove timber. If more than one heir, devisee, or assignee is entitled to share in a payment to be made under this Act, each may individually claim and receive his proper share of the total amount of $1.25 per acre, with interest, which is payable hereunder.

(c) No agent or attorney acting on behalf of another to procure a payment under this Act shall demand, accept, or receive more than 10 per centum of the payment made, and any agreement to the contrary shall be null and void.

SEC. 3. The Act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483) is hereby repealed. No reconveyance of lands to which section 1 of this Act applies shall hereafter be made under section 6 of the Act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872).

SEC. 4. Any land for which the United States makes payment under section 1 of this Act, or any land for which it might make payment thereunder upon application by the proper party, but for which no demand is made, shall (unless it has heretofore been disposed of by the United States)

be a part of the national forest, national park, or other area within the boundaries of which it is embraced, shall be administered as a part thereof, and shall be subject to the laws, rules, and regulations applicable to land set apart and reserved from the public domain in that national forest, national park, or other area.

Passed the House of Representatives April 4, 1960.

Attest: RALPH R. ROBERTS,

Clerk.

Calendar No. 1697

86TH CONGRESS
2D SESSION

H. R. 9142

[Report No. 1639]

AN ACT

To provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

APRIL 6 (legislative day, APRIL 5), 1960
Read twice and referred to the Committee on Interior and Insular Affairs

JUNE 21, 1960
Reported without amendment

PURCHASE AND EXCHANGE OF LAND ON BLUE RIDGE AND NATCHEZ TRACE PARKWAYS

The bill (S. 2914) to authorize the purchase and exchange of land and interests therein on the Blue Ridge and Natchez Trace Parkways was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to consolidate, on the Blue Ridge Parkway and the Natchez Trace Parkway, the land forming each such parkway, to adjust ownership lines, and to eliminate hazardous crossings of and accesses to these parkways, the Secretary of the Interior is authorized to acquire, by purchase or exchange, land and interests in land contiguous to the parkways. In consummating exchanges under this Act, the Secretary may transfer parkway land, interests therein, and easements: *Provided,* The property rights so exchanged shall be approximately equal in value.

ABOLITION OF ARLINGTON MEMORIAL AMPHITHEATER COMMISSION

The bill (S. 3264) to abolish the Arlington Memorial Amphitheater Commission was considered, order to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Defense or his designee may send to Congress in January of each year, his recommendations with respect to the memorials to be erected, and the remains of deceased members of the Armed Forces to be entombed, in the Arlington Memorial Amphitheater, Arlington National Cemetery, Virginia.

(b) No memorial may be erected and no remains may be entombed in such amphitheater unless specifically authorized by Congress.

(c) The character, design, or location of any memorial authorized by Congress is subject to the approval of the Secretary of Defense or his designee.

SEC. 2. The Act of March 4, 1921, chapter 169 (24 U.S.C. 291–295) is repealed.

EXCHANGE OF CERTAIN PROPERTY WITHIN THE SHENANDOAH NATIONAL PARK

The bill (S. 3399) to authorize the exchange of certain property within Shenandoah National Park, in the State of Virginia, and for other purposes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may accept title to approximately 37.44 acres of land within the authorized boundaries of the Shenandoah National Park, said land fronting on United States Highway Numbered 211 and being more particularly described as follows:

Beginning at park monument H–8, thence with the park boundary line the following courses and distances: north 51 degrees 57 minutes, east 2,242.0 feet to park monument H–9; south 26 degrees 40 minutes, east 51.0 feet to park monument H–10; south 32 degrees 40 minutes, east 340.0 feet to park monument H–11; south 11 degrees 35 minutes, east 190.0 feet to park monument H–12; south 41 degrees 26 minutes, east 329.0 feet to park monument H–13; thence crossing Pass Run south 57 degrees 00 minutes 36 seconds, west 1,871.32 feet to a marked white oak tree near the northeast edge of the fire road on top of Piney Mountain, thence north 58 degrees 36 minutes, west 771.16 feet to the point of beginning.

In exchange for the aforesaid land the Secretary is authorized to convey on the basis of approximately equal values a parcel of park land containing approximately 38.58 acres, being more particularly described as follows:

Beginning at park monument P–153, a point in the center of Route 666, Virginia Department of Highways, thence with the park boundary line the following courses and distances: north 66 degrees 27 minutes, west 345.0 feet to park monument P–152; north 41 degrees 08 minutes, east 705.0 feet to park monument P–151; north 63 degrees 01 minutes, west 302.0 feet to park monument P–150; north 30 degrees 38 minutes, east 1,110.0 feet to park monument P–149; south 74 degrees 36 minutes, east 443.0 feet to park monument P–148; north 41 degrees 33 minutes, east 109.0 feet to park monument P–147; south 69 degrees 50 minutes, east 668.0 feet to the center of the said Route 666; thence leaving the courses of the park boundary line and following the alinement of said Route 666 for the following courses and distances; south 36 degrees 26 minutes, west 436.0 feet; south 33 degrees 45 minutes, west 398.0 feet; south 29 degrees 39 minutes, west 388.0 feet; south 13 degrees, 55 minutes, west 100.0 feet; south 04 degrees 16 minutes, west 70.0 feet; south 32 degrees 37 minutes, west 49.0 feet; north 89 degrees 45 minutes, west 43.0 feet; north 66 degrees 43 minutes, west 50.0 feet; north 89 degrees 26 minutes, west 100.0 feet; north 73 degrees 39 minutes west 78.0 feet; north 84 degrees 11 minutes, west 45.0 feet; south 72 degrees 08 minutes, west 100.0 feet; south 43 degrees 17 minutes, west 50.0 feet; south 30 degrees 57 minutes, west 73.0 feet; south 47 degrees 22 minutes, west 70.0 feet; south 65 degrees 32 minutes, west 68.0 feet; south 80 degrees 05 minutes, west 130.0 feet; south 51 degrees 40 minutes, west 118.0 feet; south 66 degrees 51 minutes, west 36.0 feet; to the point of beginning.

LEASING OF OIL AND GAS INTERESTS IN CERTAIN LANDS

The bill (H.R. 8740), to provide for the leasing of oil and gas interests in certain lands owned by the United States in the State of Texas was considered, ordered to a third reading, read the third time, and passed.

PAYMENT FOR LAND HERETOFORE CONVEYED TO THE UNITED STATES

The bill (H.R. ~~8740~~ 9142), to provide for payment for land heretofore conveyed to the United States as a basis for lien selections from the public domain, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

ASSESSMENT OF INDIAN TRUST LANDS WITHIN THE LUMMI INDIAN DIKING PROJECT, WASHINGTON

The Senate proceeded to consider the bill (H.R. 11953) to provide for the assessing of Indian trust lands and restricted fee patent Indian lands within the Lummi Indian diking project in the State of Washington, which had been reported from the Committee on Interior and Insular Affairs, with amendments, on page 2, after line 21, to strike out:

SEC. 2. The Secretary of the Interior is authorized and is hereby directed to cancel all outstanding charges of whatsoever nature for both operation and maintenance and construction assessments including any interest or penalties outstanding on the date of the approval of this Act, against all lands within the limits of the Lummi diking project as established by the Act of March 18, 1926 (44 Stat. 211–212). The effective date of such cancellation shall be within one year after the date of the approval of this Act.

And, in lieu thereof, to insert:

SEC. 2. The Secretary of the Interior is authorized and is hereby directed to cancel all outstanding operation and maintenance assessments including any interest or penalties outstanding on the date of the approval of this Act, against all lands within the limits of the Lummi diking project as established by the Act of March 18, 1926 (44 Stat. 211, 212). The effective date of such cancellation shall be the date of the establishment of the diking and drainage district that may be formed pursuant to section 1 of this Act.

And, on page 4, after line 16, to insert a new section, as follows:

SEC. 4. The Secretary of the Interior is authorized to contract with the diking and drainage district organized under the State law for collection by the district as an agent of the Secretary of assessments for construction charges heretofore incurred by the United States.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

ISSUANCE OF HOMESTEAD PATENT TO HEIRS OF FRANK L. WILHELM

The bill (H.R. 3122) directing the Secretary of the Interior to issue a homestead patent to the heirs of Frank L. Wilhelm was considered, ordered to a third reading, read the third time, and passed.

DISPOSITION OF CERTAIN PUBLIC LANDS IN ALASKA

The bill (S. 3267) to amend the act of October 17, 1940, relating to the disposition of certain public lands in Alaska was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of of America in Congress assembled, That the Act of October 17, 1940 (54 Stat. 1191; 48 U.S.C. 353, note), is hereby amended—

(1) by striking out the words "$1.25 per acre" appearing in section 2 thereof and by substituting therefor the words "their fair market value as determined by the Secretary by appraisal or otherwise";

(2) by adding a new section 3 thereto reading as follows: "The State of Alaska may, with the approval of the Secretary of the Interior, select any of the lands described in section 2 of this Act in partial satisfaction of land grants made or confirmed by the Act

of July 7, 1958 (72 Stat. 339, 340), subject to the terms and conditions of that Act"; and

(3) by adding a new section 4 thereto reading as follows: "Notwithstanding the provisions of section 2 of this Act, the Secretary of the Interior may sell to each of those persons who, on August 1, 1959, had on file in the Anchorage Land Office of the Bureau of Land Management, a valid application to purchase lands under this Act, the lands described in his application at the prices heretofore recommended by the Alaska Rural Rehabilitation Corporation but at not less than $1.25 per acre."

REVISION OF BOUNDARIES OF DINOSAUR NATIONAL MONUMENT

The Senate proceeded to consider the bill (H.R. 6597) to revise the boundaries of Dinosaur National Monument and provide an entrance road or roads thereto, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs, with amendments, on page 4, after line 24, to strike out:

thence northerly along the east line of said section 1, said township 5 south, range 24 east, and sections 36 and 25, township 4 south, range 24 east, to the southwest corner of section 19, township 4 south, range 25 east;

thence easterly along the south line of said section 19 to the southeast corner of the said section 19;

thence northerly along the east lines of said section 19 and section 18 of the northeast corner of said section 18 of said township and range;

thence easterly along the south lines of sections 8 and 9 to the northwest corner of section 15 of said township and range;

thence southerly along the west line of said section 15 to the west quarter section corner of said section 15;

thence easterly along the east-west quarter-section line of said section 15 to the center of said section 15;

thence southerly along the north-south quarter- section line of said section 15 to the south quarter-section corner of said section 15;

thence easterly along the south line of said section 15 to the northwest corner of section 23, said township and range;

thence southerly along the west line of said section 23 to the southwest corner of the northwest quarter of the southwest quarter of the said section 23; thence easterly along the south one-sixteenth latitudinal section lines of said section 23 and fractional section 24, said township 4 south, range 25 east, Salt Lake meridian, Utah, to a point on the Utah-Colorado State boundary line;

thence southerly along the Utah-Colorado State boundary line, being the west line of fractional section 23, fractional township 6 north, range 104 west, sixth principal meridian, Colorado, to the southwest corner of lot 12, said fractional section 23;

On page 6, after line 10, to insert:

thence northerly along the east lines of said section 1, said township 5 south, range 24 east, and sections 36, 25, 24 and unsurveyed section 13, township 4 south, range 24 east, to the northeast corner of said unsurveyed section 13, said township and range;

thence easterly along the south lines of sections 7, 8, 9, 10, 11 and fractional section 12, township 4 south, range 25 east, Salt Lake meridian, Utah, to a point of the Utah-Colorado State boundary line;

thence southerly along the Utah-Colorado State boundary line, being the west line of fractional sections 11, 14, and 23, fractional township 6 north, range 104 west, sixth principal meridian, Colorado, to the southwest corner of lot 12, said fractional section 23, said fractional township and range;

And, on page 16, after line 22, to insert a new section, as follows:

SEC. 4. Any portion of the lands and interests in lands comprising the Dinosaur National Monument shall be made available upon Federal statutory authorization for public nonmonument uses when such uses shall have been found in consideration of the public interest to have a greater public necessity than the uses authorized by this Act.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

ACQUISITION OF CERTAIN PUBLIC LANDS FOR RECREATIONAL USE

The Senate proceeded to consider the bill (S. 2757) to supplement the act of June 14, 1926, as amended, to permit any State to acquire certain public lands for recreational use, which had been reported from the Committee on Interior and Insular Affairs, with amendments, on page 1, line 7, after the word "amended", to insert "by inserting after the word 'State' the words '(including any agency or instrumentality thereof)' and", and on page 2, at the beginning of line 3, insert "other than small roadside parks and rest sites", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective as of September 21, 1959, subsection (b) (1) (A) of the Act of June 14, 1926 (44 Stat. 741), as amended by the Acts of June 4, 1954 (68 Stat. 173, 174) and of September 21, 1959 (73 Stat. 571; 43 U.S.C. 869), is hereby amended by inserting after the word "State" the words "(including any agency or instrumentality thereof)" and by substituting a colon for the period at the end thereof and by adding the following thereafter:

"*Provided, however,* That should any State fail in any one calendar year to secure the maximum herein specified, other than small roadside parks and rest sites, additional conveyances may be made thereafter to that State pursuant to any application on file with the Secretary of the Interior on the last day of said year, to the extent that the conveyances would not have exceeded the limitations of said year."

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

EXEMPTION FROM TAXATION OF CERTAIN PROPERTY OF THE ARMY DISTAFF FOUNDATION

The Senater proceeded to consider the bill (S. 3195) to exempt from taxation certain property of the Army Distaff Foundation, which had been reported from the Committee on the District of Columbia, with amendments, on page 3, line 19, after "47–801c", to insert "and", and after line 20, to insert a new section, as follows:

SEC. 2. The tax exemption authorized by this Act shall become effective on the first day of the fiscal year next following the completion of construction by the Army Distaff Foundation of facilities necessary to carry out the purposes of the Foundation as described in its certificate of incorporation.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That parts of the tract of land known as "Poor Tom's Last Shift" described as follows: Beginning for the same at the intersection of the westerly line of Oregon Avenue, formerly Daniels Road, and southerly line of Tennyson Street, both as dedicated and shown on plat recorded in liber 103, folio 157, of the records of the Office of the Surveyor of the District of Columbia and running thence southwesterly along said westerly line of Oregon Avenue as shown on said plat, and as shown on plat record in liber 88, folio 34, of said surveyor's office records to a point of curve; thence southwesterly still along the said westerly line of Oregon Avenue and the northwesterly line of Nebraska Avenue, both as shown on said plat recorded in liber 88, folio 34, of said surveyor's office records, on the arc of a cirle deflecting to the right, the radius of which is 440 feet, an arc distance 376.23 feet to a point of tangent; thence southwesterly along said northwesterly line of Nebraska Avenue to the northerly line of Stephenson Lane, as dedicated and shown on plat recorded in liber 116, folio 175, of said surveyor's office records; thence along said northerly line of Stephenson Lane, north 65 degrees 55 minutes 50 seconds west 176.66 feet to a point of curve; thence northwesterly on the arc of a circle deflecting to the left, the radius of which is 460 feet, an arc distance of 144.87 feet to a point of tangent; thence north 83 degrees 58 minutes 30 seconds west 159.38 feet to a point of a curve; thence westerly on the arc of a circle deflecting to the right, an arc distance of 237.18 feet to the most southerly corner of the land conveyed to George L. Quinn and wife by deed dated May 28, 1941, and recorded June 3, 1941, in liber 7622, folio 349, among the land records of the District of Columbia; thence northeasterly and parallel with Twenty-ninth Street 400 feet to the most easterly corner of the land conveyed to Edwin S. Hoffman and wife by deed dated June 9, 1937, and recorded July 22, 1937, in liber 7133, folio 233, among the land records of the District of Columbia; thence northwesterly along the northeasterly line of said conveyance to Hoffman, 125 feet to the southeasterly line of Twenty-ninth Street as dedicated and shown on plat recorded in liber 102, folio 59, of said surveyor's office records; thence along the said line of Twenty-ninth Street north 44 degrees 58 minutes 30 seconds east 373.83 feet to the said southerly line of Tennyson Street, and thence east along said southerly line of Tennyson Street 726.83 feet to the place of beginning, situated at 6200 Nebraska Avenue Northwest, in the city of Washington, District of Columbia, owned by the Army Distaff Foundation, is hereby exempt from all taxation so long as the same is owned and occupied by the Army Distaff Foundation, and is not used for commercial purposes, subject to the provisions of sections 2, 3, and 5 of the Act entitled "An Act to define the real property exempt from taxation in the District of Columbia", approved December 24, 1942 (56 Stat. 1091; D.C. Code, secs. 47–801b, 47–801c, and 47–801e).

SEC. 2. The tax exemption authorized by this Act shall become effective on the first day of the fiscal year next following the completion of construction by the Army Distaff Foundation of facilities necessary to carry out the purposes of the Foundation as described in its certificate of incorporation.

Public Law 86-596
86th Congress, H. R. 9142
July 6, 1960

AN ACT

To provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall certify to the General Accounting Office for audit the claim of any person who relinquished or conveyed lands to the United States as a basis for a lieu selection in accordance with the provisions of the fifteenth paragraph under the heading "Surveying the Public Lands" in the Act of June 4, 1897 (30 Stat. 11, 36), as amended and supplemented by the Acts of June 6, 1900 (31 Stat. 588, 614), March 3, 1901 (31 Stat. 1010, 1037), March 3, 1905 (33 Stat. 1264) and the Act of September 22, 1922 (42 Stat. 1067, 16 U.S.C. 483), and who has not heretofore received his lieu selection, a reconveyance of his lands, or authority to cut and remove timber, as provided by law, and there shall be paid to each such person whose claim is found to be valid the sum of $1.25 per acre for the lands conveyed by him to the United States with interest thereon at the rate of 4 per centum per annum, from the date on which application was last made by said person for a lieu selection, for reconveyance, or for authority to cut and remove timber or, if no such application has been made, from the date of this Act. Said payment shall be made from moneys appropriated under the heading "Claims for Damages, Audited Claims, and Judgments," and acceptance thereof shall constitute a full and complete satisfaction of all claims which the person to whom payment is made may have against the United States arising from the transaction in connection with which the payment is made. No person shall receive, or be entitled to receive, payment under this Act except upon demand therefor made in writing to the Secretary, or any officer of the Department of the Interior to whom the Secretary delegates authority to receive such demand, within one year from the date of this Act.

Interior Department.
Payment for certain lands.

Condition for payment.

SEC. 2. (a) The right to receive payment under this Act shall not be assignable.

74 STAT. 334.

(b) For purposes of payment under this Act, the term "person who conveyed lands to the United States" includes (i) the heirs and devisees of any such person and (ii) any other person to whom he or his heirs or devisees lawfully assigned, before enactment of this Act, their right to a lieu selection or a reconveyance, or their right to receive authority to cut and remove timber. If more than one heir, devisee, or assignee is entitled to share in a payment to be made under this Act, each may individually claim and receive his proper share of the total amount of $1.25 per acre, with interest, which is payable hereunder.

74 STAT. 335.

(c) No agent or attorney acting on behalf of another to procure a payment under this Act shall demand, accept, or receive more than 10 per centum of the payment made, and any agreement to the contrary shall be null and void.

SEC. 3. The Act of September 22, 1922 (42 Stat. 1017; 16 U.S.C. 483) is hereby repealed. No reconveyance of lands to which section 1 of this Act applies shall hereafter be made under section 6 of the Act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872).

74 STAT. 335.

Disposition of land.

SEC. 4. Any land for which the United States makes payment under section 1 of this Act, or any land for which it might make payment thereunder upon application by the proper party, but for which no demand is made, shall (unless it has heretofore been disposed of by the United States) be a part of the national forest, national park, or other area within the boundaries of which it is embraced, shall be administered as a part thereof, and shall be subject to the laws, rules, and regulations applicable to land set apart and reserved from the public domain in that national forest, national park, or other area.

Approved July 6, 1960.

GPO 49139